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The President

EXECUTIVE ORDER

WITHDRAWAL OF PUBLIC LANDS FOR THE USE OF THE NAVY DEPARTMENT FOR NAVAL AVIATION PURPOSES

ALASKA

By virtue of and pursuant to the authority vested in me as President of the United States, and in order to effectuate further the purposes of Title II of the act of June 11, 1940, 54 Stat. 265, 292, authorizing the establishment of naval aviation shore facilities, it is ordered as follows:

SECTION 1. Subject to valid existing rights, the public lands on Amaknak Island, Alaska, comprising approximately 1,930 acres, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the Navy Department for naval aviation purposes, subject to the withdrawals of portions of the island made by Executive Order No. 1733 of March 3, 1913, as amended by Executive Order No. 5243 of December 19, 1929, for use as a preserve and breeding ground for native birds and for other purposes, and Executive Order No. 6044 of February 23, 1933, for the protection of the fishing rights of Alaska natives, when such uses will not interfere with naval activities; and subject to the existing reservations for lighthouse purposes of certain small tracts.

SECTION 2. The reservation made by section one of this order supersedes, so far as any lands on Amaknak Island are affected, the reservations made by the Executive order of June 10, 1902, and by Executive Orders Nos. 1456, 7816,[1] and 7847[2] of January 6, 1912, February 15, 1938, and March 21, 1938, respectively, for the use of the Navy Department.

SECTION 3. The reservation made by section one of this order shall remain in force until revoked by the President or by act of Congress.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8786]

[F. R. Doc. 41-4320; Filed, June 16, 1941; 2:00 p. m.]

[1] 3 F.R. 385.
[2] 3 F.R. 615.

EXECUTIVE ORDER

REVOKING EXECUTIVE ORDER NO. 3151 OF AUGUST 16, 1919, AND RESTORING THE LAND AFFECTED THEREBY TO ITS FORMER STATUS

ALASKA

By virtue of the authority vested in me as President of the United States, and by section 1 of the act of March 12, 1914, c. 37, 38 Stat. 305, Executive Order No. 3151 of August 16, 1919, reserving a certain tract of land at the head of Passage Canal (Portage Bay), Alaska, for the use of the Navy Department for the erection of wharves, coal storage yards, or other naval purposes, is hereby revoked, and the land affected thereby is hereby restored to its former status of being withdrawn for town-site purposes under Executive Order No. 1919½ of April 21, 1914.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8787]

[F. R. Doc. 41-4328; Filed, June 16, 1941; 2:01 p. m.]

EXECUTIVE ORDER

WITHDRAWING PUBLIC LAND FOR USE OF THE WAR DEPARTMENT

ALASKA

By virtue of the authority vested in me as President of the United States, it is ordered that the following-described public land be, and it is hereby, withdrawn

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from all forms of appropriation under the public land laws, including the mining laws, and reserved for the use of the War Department for military purposes:

SEWARD MERIDIAN

T. 13 N., R. 3 W.,
Sec. 15, NE¼ containing 160 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8788]

[F. R. Doc. 41-4323; Filed, June 16, 1941, 2:00 p. m.]

EXECUTIVE ORDER

REVOKING IN PART EXECUTIVE ORDER NO. 8344, OF FEBRUARY 10, 1940, AND RESERVING PUBLIC LANDS FOR THE USE OF THE WAR DEPARTMENT

ALASKA

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. Executive Order No. 8344[1] of February 10, 1940, withdrawing Kodiak and other islands, Alaska, for classification and in aid of legislation, is hereby revoked so far as it affects any of the lands described in section 2 of this order.

SECTION 2. The public lands of the United States in the following-described areas are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining laws, and reserved for the use of the War Department for military purposes:

MILLER POINT, SPRUCE CAPE AREA, KODIAK ISLAND, ALASKA

Beginning at a point on line of mean high tide on the east side of Kodiak Island, 57°48'30" N. latitude, 152°20'48" W. longitude, as shown on United States Coast and Geodetic Survey Chart No. 8570, March, 1910.

Thence from said initial point,
N. 45° W., 1.8 miles, to line of mean high tide on east shore of Sycamore Bay;

Thence northeasterly and southeasterly around Miller Point and Spruce Cape with meanders of Sycamore Bay, Popof Bay, and Chiniak Bay to the point of beginning.

The area described, including both public and non-public lands, aggregates 780 acres.

LONG ISLAND, ALASKA

All of Long Island and the small islands and rocks adjacent thereto. United States Coast and Geodetic Survey Chart No. 8570, March, 1910, shows Long Island situated between 57°44'30" and 57°47'30" N. latitudes and between 152°13' and 152°19' W. longitudes.

The area described, including both public and non-public lands, aggregates 1,320 acres.

KALSIN BAY AREA, KODIAK ISLAND, ALASKA

Beginning at a point west of Isthmus Island on line of mean high tide on west shore of Kalsin Bay, 57°38'25" N. latitude, 152°25'48" W. longitude, as shown on United States Coast and Geodetic Survey Chart No. 8570, March, 1910.

Thence from said initial point,
West, 4 miles, across Kodiak Island, to a point;

North, 1¼ miles, more or less, to a point on the south boundary of the naval reserve described in Executive Order No. 8278, October 28, 1939;

East, along south boundary of the naval reserve to line of mean high tide on Middle Bay;

Thence along line of mean high tide with meanders of Middle Bay, Chiniak Bay and Kalsin Bay to the place of beginning.

The area described, including both public and non-public lands, aggregates 3,450 acres.

CAPE KALEKTA, UNALASKA ISLAND, ALASKA

Beginning at a point on line of mean high tide on west shore of Agamgik Bay, Unalaska Island, 53°51'30" N. latitude, 166°21'30" W. longitude, as shown on United States Coast and Geodetic Survey Chart No. 8860, March, 1939.

Thence from said initial point,
N. 45° W., across Unalaska Island to line of mean high tide on Summer Bay;

Thence northeasterly around Cape Kalekta, Erskine Point and Brundage Head, along line of mean high tide with meanders of Summer Bay, Constantine Bay, Unalaska Bay, Kalekta Bay, Unalga Pass, English Bay, Beaver Inlet, Deep Bay and Agamgik Bay to the point of beginning.

The area described, including both public and non-public lands, aggregates 32,800 acres.

CAPE CHEERFUL, UNALASKA ISLAND, ALASKA

Beginning at a point on line of mean high tide on west shore of Broad Bay, 53°55'20" N. latitude, 166°39'00" W. longitude, as shown on United States Coast and Geodetic Survey Chart No. 8860, March, 1939.

Thence from said initial point,
N. 45° W., across Unalaska Island, to line of mean high tide on Bering Sea;

Thence northeasterly around Cape Wislow, Cape Cheerful and Eider Point, along line of mean high tide, with meanders of Bering Sea, Unalaska Bay and Broad Bay to the point of beginning.

The area described, including both public and non-public lands, aggregates 17,500 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8789]

[F. R. Doc. 41-4321; Filed, June 16, 1941; 2:00 p. m.]

EXECUTIVE ORDER

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE NAVY

CALIFORNIA

By virtue of the authority vested in me as President of the United States it is ordered that, subject to valid existing rights, the public lands in the following-described areas be, and they are hereby, withdrawn from all forms of appropriation under the public land laws, including the mining laws, and reserved for the use of the Department of the Navy in connection with a Marine Corps combat and training area:

SAN BERNARDINO MERIDIAN

T. 14 S., R. 1 W.,
sec. 28, NE¼NW¼, SW¼, SE¼SE¼;
sec. 29, W½SW¼, E½SE¼;
sec. 30, SE¼;
sec. 31, N½NE¼;

[1] 5 F.R. 654.

sec. 32, NW¼NW¼, N½SW¼, SE¼SW¼, S½SE¼;
sec. 33, E½, W½W½;
T. 15 S., R. 1 W.,
sec. 4, lots 4, 5, 10;
sec. 5, lots 1, 2, 3, 5, S½NE¼, SE¼NW¼, E½SW¼, SW¼SE¼, N½SE¼;
sec. 6, lots 1, 6, 7, E½SW¼, W½SE¼;
sec. 7, NW¼NE¼, SE¼NE¼, lot 1;

The areas described, including both public and non-public lands, aggregate 2395.82 acres.

This order supersedes, as to any of the above-described lands affected thereby, the withdrawal made by Executive Order No. 6910 of November 26, 1934, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8790]

[F. R. Doc. 41-4322; Filed, June 16, 1941; 2:00 p. m.]

EXECUTIVE ORDER

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE NAVY

CALIFORNIA

By virtue of the authority vested in me as President of the United States, it is ordered that, subject to valid existing rights and withdrawals, the following-described public lands be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the Department of the Navy in connection with a Marine Corps combat and training area:

SAN BERNARDINO MERIDIAN

T. 15 S., R. 2 W.,
sec. 11, lot 1, NE¼SW¼,
sec. 12, N½NE¼, NE¼NW¼,
containing 199.04 acres.

This order supersedes, as to any of the above-described lands affected thereby, the temporary withdrawal for classification and other purposes, made by Executive Order No. 6910 of November 26, 1934, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8791]

[F. R. Doc. 41-4327; Filed, June 16, 1941; 2:01 p. m.]

EXECUTIVE ORDER

WITHDRAWING PUBLIC LANDS FOR USE OF THE WAR DEPARTMENT

FLORIDA

By virtue of the authority vested in me as President of the United States, and subject to all valid existing rights, it is ordered that the following-described public lands be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the War Department for military purposes:

TALLAHASSEE MERIDIAN

T. 6 S., R. 23 E., sec. 2, W½NW¼, SE¼NW¼;
T. 7 S., R. 23 E.,
sec. 10, SW¼NE¼;
sec. 20, NW¼SE¼,
containing 199.66 acres.

This order supersedes as to any of the above-described lands affected thereby the withdrawal made by Executive Order No. 6964 of February 5, 1935, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8792]

[F. R. Doc. 41-4324; Filed, June 16, 1941; 2:01 p. m.]

EXECUTIVE ORDER

WITHDRAWING PUBLIC LANDS FOR THE USE OF THE WAR DEPARTMENT

OKLAHOMA

By virtue of the authority vested in me as President of the United States it is ordered that, subject to valid existing rights, the following-described lands be, and they are hereby, withdrawn from all forms of appropriation under the public land laws, including the mining laws, and reserved for the use of the War Department for military purposes:

GOLDEN PASS TOWN SITE, OKLAHOMA

All of Blocks 15, 34, 35 and 36, containing 10.32 acres.

This order supersedes as to any of the above-described lands affected thereby, the withdrawal made by Executive Order No. 6964 of February 5, 1935, as amended.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8793]

[F. R. Doc. 41-4326; Filed, June 16, 1941; 2:01 p. m.]

EXECUTIVE ORDER

WITHDRAWING PUBLIC LANDS FOR USE OF THE WAR DEPARTMENT

OREGON

By virtue of the authority vested in me as President of the United States, and subject to all valid existing rights, it is ordered that the public lands within the following-described areas, be, and they are hereby, withdrawn from all forms of appropriation under the public-land laws, including the mining laws, and reserved for the use of the War Department for military purposes:

WILLAMETTE MERIDIAN

T. 4 N., R. 26 E.,
sec. 1, E½;
sec. 12, E½;
sec. 13, E½;
sec. 24, that part of the E½ lying north of the Oregon-Washington Railroad and Navigation Company Coyote cut-off.
T. 4 N., R. 27 E.,
sec. 1, W½;
secs. 2 to 11, inclusive;
sec. 12, W½;
sec. 13, W½;
secs. 14 to 18, inclusive;
secs. 19, 20, and 21, those parts north of the Oregon-Washington Railroad and Navigation Company Coyote cut-off;
secs. 22 and 23, all;
sec. 24, W½;
sec. 25, that part of W½ lying north of the Oregon-Washington Railroad and Navigation Company Coyote cut-off.
secs. 26, 27, and 28, those parts north of the Oregon-Washington Railroad and Navigation Company Coyote cut-off.

The areas described, including both public and non-public lands, aggregate 15,387 acres.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 14, 1941.

[No. 8794]

[F. R. Doc. 41-4325; Filed, June 16, 1941; 2:01 p. m.]

EXECUTIVE ORDER

MODIFYING EXECUTIVE ORDER OF DECEMBER 12, 1917, CREATING POWER SITE RESERVE NO. 661, WILLAMETTE RIVER TRIBUTARIES, OREGON

MODIFICATION NO. 418

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, as amended by the act of August 24, 1912, c. 369, 37 Stat. 497, it is ordered that the Executive order of December 12, 1917, creating Power Site Reserve No. 661, be, and it is hereby, modified to the extent necessary to permit the County of Lane, Oregon, to construct a road over lot 5, sec. 35, T. 16 S., R. 2 E., Willamette meridian, Oregon, as shown on a map on file in the General Land Office, Department of the Interior, and bearing the title

COUNTY ROAD LOCATION
IN SECTION 35, T 16 S. R. 2 E. W. M.
LANE COUNTY, OREGON

on condition that the use of the road or any part of it shall be discontinued without liability or expense to the United States or its licensees when found by the Secretary of the Interior to be in conflict with project works authorized by the United States.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
June 16, 1941.

[No. 8795]

[F. R. Doc. 41-4348; Filed, June 17, 1941; 11:34 a. m.]

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

[Order No. 27, as Amended [1]—Amendment No. 2]

PART 927—MILK IN NEW YORK METROPOLITAN MARKETING AREA [2]

Sec.

927.0 Findings.
927.1 Definitions.
927.3 Classification of milk.
927.4 Minimum prices.
927.5 Reports of handlers.
927.6 Determination of uniform price.
927.7 Payments to producers.
927.8 Expense of administration.

Whereas the Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, on March 30, 1940, and, on April 25, 1940, made effective, as of May 1, 1940, the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area; and

Whereas the Secretary, having reason to believe that amendment of said order, as amended, would tend to effectuate the declared policy of the act, gave, on the 20th day of September 1940, notice of a hearing which was held on October 7 and 8 at New York City, on October 9 and 10 at Syracuse, New York, on October 11 at Albany, New York, and on October 15 and 16 at New York City, and, at said times and places, conducted a public hearing at which all interested parties were afforded an opportunity to be heard on proposed amendments to said order, as amended, and

Whereas the Secretary, having reason to believe that further amendment of said order, as amended, would tend to effectuate the declared policy of the act, gave, on the 6th day of May 1941, notice of a hearing which was held on May 14 and 15 at New York City, on May 16 and 17 at Albany, New York, and on May 19, 20, 21, 22, and 23 at New York City and at said times and places conducted a public hearing at which all interested parties were afforded an opportunity to be heard on proposed amendments to said order, as amended; and

Whereas the Secretary of Agriculture finds (§ 927.0), upon the evidence introduced at said hearing on such proposed amendments, said findings being in addition to the findings made upon the evidence introduced at the hearing on said order, as amended, and to the other findings made prior to or at the time of the original issuance of said order and at the time of the issuance of said order, as amended, (which findings are hereby ratified and affirmed, save only as such findings are in conflict with findings hereinafter set forth):

§ 927.0 *Findings.* (a) That prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of the act, are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply of and demand for such milk and that the minimum prices set forth in this amendment to said order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which are declared in the act to be the policy of Congress to establish;

(b) That the order, as amended, as herewith amended, regulates the handling of milk in the same manner as a marketing agreement upon which a hearing has been held; and

(c) That the issuance of this amendment to the order, as amended, and all of the terms and conditions of the order, as amended, as herewith amended, will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the powers conferred upon him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that the order, as amended, regulating the handling of milk in the New York metropolitan marketing area be and it is hereby amended as follows:

A. Amend § 927.1 (f) to read as follows:

§ 927.1 *Definitions.*

* * * * *

(f) "Handler" means any person who engages in the handling of milk, or cream or milk products therefrom, which milk was received at a plant approved by any health authority for the receiving of milk to be sold in the marketing area, which handling is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce. This definition shall be deemed to include a cooperative association of producers with respect to any milk received from producers at any plant approval for which is held by such association or with respect to any milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association receives payment.

B. Delete § 927.3 (a) and insert in lieu thereof the following:

§ 927.3 *Classification of milk*—(a) *Basis of classification.* All milk received during any month from producers by handlers shall be classified in the classes set forth in paragraph (b) of this section in accordance with the form in which it is held at or moved from, within 8 days after the end of the month, the plant where received from producers, including members of any cooperative association, except that milk which is moved to some other plant outside the marketing area, or milk the butterfat from which is moved to some other plant outside the marketing area, may be classified at the first plant subject to the following conditions:

(1) If the other plant is approved for the sale of milk in the marketing area, and all products moved from or held at such plant would classify milk in classes to which diversion payments are applicable, the allocation of the several classes to the first plant may be at the option of the handler or handlers involved, but shall be pro rata in case of failure to exercise the option, or in case there is milk or product moved from or held at such plant which would classify milk in classes to which diversion payments are not applicable.

(2) If the other plant is not approved for the sale of milk in the marketing area, allocation of classes to the first plant shall, in the absence of proof of use in a specific class, be pro rata in accordance with the form in which all milk, all cream, or all of both, as the case may be, received during the month, at the other plant was held at or moved from such plant.

(3) In establishing the classification of any milk received at a plant from producers the burden rests upon the handler who receives the milk from producers to show that it should not be classified as Class I milk; likewise, having established the manufacture of cream, the burden rests upon such handler to show that the milk, the butterfat from which was manufactured into cream, should not be classified in Class II–A: *Provided,* That the only farm in which butterfat received as cream at any plant in the marketing area may leave such plant so that the milk from which such cream was manufactured may be classified other than in Classes I or II–A is in the form of frozen desserts or homogenized mixtures.

* * * * *

C. In § 927.3 (b) delete subparagraphs (1) through (10) and substitute the following subparagraphs (1) through (7).

§ 927.3 *Classification of milk.*

* * * * *

(b) *Classes of utilization.* * * *

(1) Class I milk shall be all milk which leaves a plant as milk, or cultured or flavored milk drinks containing 3.0 percent butterfat or more, and all milk the classification of which is not established in some other class named in this paragraph, except that loss or waste of milk in a plant where milk is received from producers, not to exceed 2 percent of the

[1] 5 F.R. 1258, 4970.

[2] Amendment to §§ 927.0, 927.1, 927.3, 927.4, 927.5, 927.6, 927.7, and 927.8, issued under the authority contained in 48 Stat. 31 (1933); 7 U.S.C. § 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. § 601 et seq. (Supp. IV 1938).

total quantity of milk received, may be prorated to each class or price subdivision of such class in the proportion which the milk in such class or price subdivision of such class is of the total quantity of milk received at such plant: *Provided*, That any loss or waste in excess of 2 percent shall be subject to the price set forth in § 927.4 (a) (3).

(2) Class II–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cultured or flavored milk drinks containing less than 3.0 percent butterfat or in the form of cream, sweet or sour, unless such cream is established to have been subsequently so handled or marketed as to classify such milk in some other class.

(3) Class II–B milk shall be all milk the butter fat from which leaves or is on hand at a plant in the form of plain condensed milk, or, except as set forth in subparagraph (5) of this paragraph, frozen desserts or homogenized mixtures; or which leaves or is on hand at a plant in the form of cream which is subsequently held in a licensed cold storage warehouse at an average temperature below zero degrees Fahrenheit for 7 consecutive days, and below 15 degrees Fahrenheit for at least 21 days thereafter, as shown by charts of a recording thermometer and which is subject at all times to being inspected by a representative of the market administrator to determine the physical presence of the cream and the temperature of the room where stored. After the first 7 consecutive days such cream may be moved from one licensed cold storage warehouse to another: *Provided*, That the market administrator receives notice of such removal within 48 hours thereafter. Any handler whose report claimed the original classification of milk in this class shall be liable under the provisions of § 927.7 (k) for the difference between the Class II–B and Class II–A prices for the month in which the II–B classification was claimed on any such milk, if the storage of the cream does not comply with all the requirements of this subparagraph.

(4) Class II–C milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of cream which is delivered to a purchaser in the special cream area, is not moved as cream to a plant in the marketing area or sold in the marketing area, and the classification of which is not established in some other class.

(5) Class III milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of evaporated milk in hermetically sealed cans, sweetened condensed milk, milk chocolate, and other candy products, milk powder, malted milk powder, or cheeses other than those specified in subparagraph (7); or which leaves a plant in the form of frozen desserts or in the form of homogenized mixtures used in frozen desserts, provided the frozen desserts in both instances were sold and remained outside of New York City; and all milk the butterfat from which is delivered as cream to a purchaser outside the special cream area which is not subsequently moved back into the special cream area or the marketing area.

(6) Class IV–A milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of butter.

(7) Class IV–B milk shall be all milk the butterfat from which leaves or is on hand at a plant in the form of Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese, or part-skim Cheddar cheese."

D. Amend § 927.4 (a) as follows:

Change the sentence in subparagraph (3) to read:

§ 927.4 *Minimum prices.*

* * * * *

(3) For Class I milk the price per hundredweight during each month shall be, except as specified in subparagraphs (4), (5), and (6) of this paragraph, the prices set forth in the table in this subparagraph: *Provided, however*, That the price shall be $2.65 per hundredweight during the month of July 1941, and during the months August 1941 through March 1942, the price shall be $2.88 per hundredweight.

Delete the second sentence of subparagraph (5) and insert a new subparagraph (6) to read:

(6) For Class I milk which has not passed through the marketing area, but including Class I milk which was received direct from producers at a plant in the marketing area, and which is ultimately distributed in an area not regulated by an order of the Secretary, the price shall be the uniform price computed by the market administrator pursuant to § 927.6 (b) plus 20 cents per hundredweight included in the net pool obligation for such milk pursuant to § 927.6 (a).

Renumber subparagraph (6) as subparagraph (7).

Delete subparagraphs (7) and (8) and insert a new subparagraph (8) to read:

(8) For Class II–B milk the price during each month shall be 12 cents less than the Class II–A price.

Insert a new subparagraph (9) to read:

(9) For Class II–C milk the price during each month shall be 10 cents higher than the Class III price.

Renumber subparagraph (9) as subparagraph (10), and strike the "–A" at both places, and add "Manitowoc, Wis.," and "West Bend, Wis.," to the list of locations of evaporated milk plants.

Delete subparagraphs (10), (11), (12), and (14); renumber subparagraph (13) as subparagraph (11); and insert a new subparagraph (12) to read:

(12) For Class IV–B milk the price during each month shall be a price computed by the market administrator as follows:

From the average of weekly quotations at Wisconsin Cheese Exchange, Plymouth, Wisconsin, for Single Daisies there shall be deducted ¾ cent and the result multiplied by 9.45: *Provided*, That if there are no such weekly quotations for Single Daisies, the weekly quotations at Wisconsin Cheese Exchange, Plymouth, Wisconsin, for Cheddars plus ½ cent, or in the absence of such quotations for Cheddars, the weekly quotations at Wisconsin Cheese Exchange for Twins plus ½ cent are to be used in place of the quotations for Single Daisies.

E. In § 927.4 (b) change the words "subparagraph (14)" to the words "subparagraph (12)" and amend § 927.4 (c) by deleting column D from the table, and Class III–B from the heading of column C.

F. Amend § 927.5 (*Reports of handlers*) as follows:

Change paragraph (a) (3) to read:

(3) If the classification of any milk is claimed by such handler on the basis of disposition in some other plant, the disposition of such milk at such other plant covered by statement signed by the operator of the other plant if not a handler.

Insert a new paragraph (b) to read:

(b) *Producer pay roll reports.* Each handler shall report with respect to producers as follows:

(1) On or before the 10th day after the end of each month, the information required by the market administrator with respect to producer additions, producer withdrawals, and changes in names of farm operators;

(2) On or before the last day of each month, such handler's producer pay roll for the preceding month, which shall show for each producer:

(i) The total delivery of milk with the average butterfat test thereof,

(ii) The amount of payment due such producer,

(iii) Any deductions and charges made by the handler,

(iv) The net amount of payment to such producer made pursuant to § 927.7,

(v) Such other information with respect thereto as the market administrator may require.

Renumber paragraph (b) as paragraph (c) and change the opening statement to read:

(c) *Verification of reports and payments.* The market administrator shall promptly verify all reports and payments of each handler by audit of such handler's records, and of the records of any other handler or person upon whose disposition of milk such handler claims classification, and each such handler shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities, of his own or of other persons, as will enable the market administrator to:

G. Amend § 927.6 (*Determination of uniform price*) as follows:

Change paragraph (a) (2) to read:

(2) Subtract pro rata out of each class the quantity of milk received from the handler's own farm or from a farm in Nassau or Suffolk Counties, not approved for sale of milk in New York City;

Change subparagraph (5) to read:

(5) Subject to adjustment for appropriate differentials applicable pursuant to § 927.4 (b) and (c), multiply the Class I milk priced pursuant to § 927.4 (a) (6) by 20 cents per hundredweight, multiply the remaining net pooled milk in each class by the class price and add together the resulting values;

In subparagraph (8) substitute the figure "20" for the figure "5."

Delete subparagraphs (4) and (5) of paragraph (b) and substitute the following:

(4) Subtract an amount equal to not less than 4 cents nor more than 5 cents per hundredweight of net pooled milk to provide against the contingency of errors in reports and payments or of delinquencies in payments by handlers;

(5) Subtract, from the total net pooled milk of all handlers whose reports are included in this computation, the total Class I milk priced pursuant to § 927.4 (a) (6) of all handlers; and

(6) Divide the result obtained in (4) by the result obtained in (5). The result shall be known as the uniform price for milk containing 3.5 percent butterfat received from producers at plants in 201–210 mile zone.

H. Amend § 927.7 (a) to read as follows:

§ 927.7 *Payment to producers*—(a) *Time of payment.* On or before the 25th day of each month each handler shall make payment to each producer for all milk delivered by such producer during the preceding month at not less than the uniform price subject to differentials set forth in paragraphs (b) and (c) of this section: *Provided,* That each handler which is also a cooperative marketing association determined by the Secretary to be qualified under the Capper-Volstead Act, may, with respect to producers who are members of and under contract with such association, make distribution, in accordance with the contract between the association and such members, of the net proceeds of all its sales in all markets in all use classifications.

I. Delete § 927.7 (d), and amend paragraph (e) by deleting the first sentence thereof and inserting in place thereof the sentence "Any cooperative association of producers may apply to the Secretary for a determination of its qualifications to receive payments pursuant to this paragraph by reason of its having and exercising full authority in the sale of the milk of its members; arranging for and supplying, in a manner commensurate with the marketing capacity of the several types of cooperative associations designated in this paragraph, in times of short supply, Class I milk to the marketing area; securing utilization of milk, in times of long supply, in a manner to assure the greatest possible returns to all producers; having its entire activities under the control of its members; and complying with all provisions of this order applicable to it."

Insert the word "complying" before the word "handlers" in subparagraph (2) and before the word "handler" in subparagraph (3).

J. Amend § 927.7 (f) to read as follows:

* * * * *

(f) *Diversion payments.* Any handler may make claim, on forms supplied by the market administrator, for payments out of the producer-settlement fund under the conditions set forth in this paragraph with respect to milk received from producers at a plant not having any equipment other than that needed for the receiving and shipping of milk which was moved to a second plant outside of the marketing area and there separated into cream and skim milk or manufactured. The market administrator shall make payment to such handler, subject to audit, out of the producer-settlement fund, or issue credit against balances due by such handler to the producer-settlement fund, at the following rates and under the following conditions:

(1) Payments may be made only on milk which has been, pursuant to § 927.3, properly classified, for any month of the year, in Classes II–A, II–B, II–C, and III; for the months of January, February, March, April, September, and October, in Class IV–A; or, for the months of May, June, July, and August, in Class IV–B.

(2) No claim shall be allowed if the milk on which the claim is made is manufactured at a second plant which is one-half mile or less from the first plant.

(3) Claims shall be paid at a rate for handling through the receiving plant of 17 cents per hundredweight, plus a hauling allowance at the rate of ¼ cent per hundredweight per mile for 20 miles and 1/10 cent per hundredweight per additional mile for the shortest highway distance between the two plants: *Provided, however,* That no claim for a hauling allowance shall be paid for a haul greater than 65 miles.

(4) The market administrator shall determine, in the manner prescribed by § 927.4 (c), a freight zone for each plant on movement of milk to which claim is made by a handler. If the zone of the plant, on movement of milk to which claim is made, is nearer to New York City than the zone of the plant from which the movement was made, the rate of the claim otherwise payable shall be reduced by the difference between the price applicable to the class at the first plant and the price which would be applicable at the second plant if the milk had been received there from producers.

(5) The market administrator shall from time to time cause inspections to be made of the buildings, facilities, and surroundings of plants and notify handlers of his determination as to what constitutes the plant and its equipment for the purposes of the § 927.7 (f). Such determination shall be ruling for all other purposes under this order.

(6) Diversion payments shall not be paid to any handler making claim therefor if, during the month for which such claim is made, such handler has a less proportion of net pooled milk in Class I than the proportion of total net pooled milk in Class I of all other handlers, and such handler has refused to sell milk to other handlers who do not operate or control country receiving plants or has refused to sell to such handlers milk of a butterfat test nearest to that desired by the purchaser if available in the seller's country plants which are eligible for diversion payments, provided the offer of purchase met the following conditions:

(i) Cash on delivery for a quantity of not less than 200 cans per shipment; method of delivery at the option of the buyer.

(ii) Purchase price equal to the price applicable pursuant to § 927.4 (a) (3), subject to the applicable differentials pursuant to (*a*) § 927.4 (c); (*b*) the butterfat differentials set forth in § 927.4 (b); (*c*) plus not more than 23 cents per hundredweight for handling through the country plant; and (*d*) plus the payments provided by § 927.8.

K. Amend § 927.7 (g) to read as follows:

* * * * *

(g) *Storage cream payments.* With respect to butterfat in frozen cream held in one or more licensed cold-storage warehouses for more than 28 days under the conditions set forth in § 927.3 (b) (3), the handler whose net pool obligation included such butterfat as Class II–B milk may make claim, on forms supplied by the market administrator, for payments out of the producer-settlement fund, if such butterfat was stored during the months of April to September, inclusive, and was used in Class IV–A during the months of January to March, inclusive. The market administrator shall, after investigation and audit of such claim, make payment to such handler out of the producer-settlement fund, or issue credit against balances due from such handler to the producer-settlement fund in an amount equal to the difference between the Class II–B price and the Class IV–A price, respectively, in effect for the month during which the milk was received from producers.

L. Amend § 927.7 (h) by deleting the last full sentence thereof and substituting the following:

(h) * * * Immediately after computing the uniform price for each month the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the amount obtained by multiplying the uniform price by the quantity of such handler's net pooled milk remaining after

subtracting therefrom the Class I milk priced pursuant to § 927.4 (a) (6), and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

M. Amend § 927.8 (a) by substituting the words "properly classified" for the word "utilized."

In witness whereof, I, Claude R. Wickard, Secretary of Agriculture of the United States, have executed, in duplicate, and issued this amendment No. 2 to the order, as amended, regulating the handling of milk in the New York metropolitan marketing area, to become effective at such time as I may subsequently declare, and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 14th day of June 1941.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-4347; Filed, June 17, 1941; 11:20 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER I—BUREAU OF ANIMAL INDUSTRY

[Amendment 15 to B.A.I. Order 276]

PART 3—RECORDS AND NOTICES

Pursuant to the authority conferred upon the Secretary of Agriculture by section 2 of the act of Congress approved February 2, 1903 (32 Stat. 792; 21 U.S.C. 111), and by the act of Congress approved March 4, 1913 (37 Stat. 832–833; 21 U.S.C. 151–158), and in order better to effectuate the purposes of these acts, Part 111, Chapter I, Title 9, Code of Federal Regulations, [paragraphs 1 and 2, section 1, regulation 11, B.A.I. Order 276, August 18, 1922] is hereby revoked and the following is substituted and prescribed in lieu thereof:

§ 111.1 *Licensed establishments, manufacturers, distributors, and importers to keep records.* Permanent, detailed records of the sources of the preparation, of tests for purity and potency, and of methods of preservation of each batch of virus, serum, toxin, and analogous products shall be kept by each licensed establishment and by each manufacturer producing such products for importation into the United States. Permanent, detailed records in a form satisfactory to the Chief of the Bureau shall be maintained by each licensed establishment, each distributor, and each importer, showing the sale, shipment, or other disposition made of the viruses, serums, toxins, and analogous products handled. (37 Stat. 832–833; 21 U.S.C. 151–158)

§ 111.2 *Notices of shipments required.* No person[1] shall ship, deliver for shipment, or transport from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia any virus, serum, toxin, or analogous product consisting in whole or in part of live virus or live organisms, including brucella abortus vaccines, anthrax vaccines, blackleg vaccines, fowl-laryngotracheitis vaccines, fowl-pox vaccines, ovine-ecthyma vaccines, hog-cholera viruses, canine-distemper viruses, or like products, unless the shipper at the same time forwards a notice in the following form to the Bureau of Animal Industry and to the proper livestock sanitary official in the State or Territory or the District of Columbia to which the shipment is consigned:

Date_____19

Products	*License No.*	*Serial No.*	*Cc., gm., doses*

Shipper_____
Point of shipment_____
(City and street address)
How shipped_____
Consignee_____
Destination_____
(City and street address)
Date of last previous shipment to this State_____
I hereby certify that on this date a copy of this notice was forwarded to_____
(Name of State official)
(Agency, commission, etc.)
(Address)
(Shipper)
(By)_____

The signature of the shipper or of his agent shall be written in full. The original must be mailed to the Chief of the Bureau of Animal Industry, Washington, D. C., on the date of shipment, and a copy must be mailed at the same time to the designated State official. (Sec. 2, 32 Stat. 792; 21 U.S.C. 111; 37 Stat. 832–833; 21 U.S.C. 151–158)

This amendment, which for purpose of identification is designated Amendment 15 to B.A.I. Order 276, shall be effective on and after January 1, 1942.

Done at Washington this 16th day of June 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-4345; Filed, June 17, 1941; 11:19 a. m.]

[1] See § 101.1 (k) [Par. 12, sec. 1, reg. 1, B.A.I. Order 276, August 18, 1922]

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER VI—ORGANIZED RESERVES

PART 61—OFFICERS' RESERVE CORPS[1]

GENERAL OFFICERS

§ 61.15 *General officers, appointment*—(a) *Authorized grades.* The authorized grades in which appointment may be made are those of brigadier general and major general. Appointments and reappointments to these grades are subject to confirmation by the Senate.

(b) *Vacancies.* Appointments will be made only when a vacancy exists under the procurement objective of the War Department General Mobilization Plan, the necessity for filling which is in the interest of the military service. Recommendations or requests for an appointment will specify the vacancy.*† [Pars. 2 and 4]

*§§ 61.15 to 61.19 issued under authority contained in Sec. 37, 39 Stat. 189; Sec. 32, 41 Stat. 755 and Sec. 2, 42 Stat. 1033; 10 U.S.C. 352, 353.

†These regulations are also contained in AR 140–15, Dec. 15, 1924. The particular paragraphs of the Army Regulations appear in brackets at the end of sections.

§ 61.16 *Brigadier general of the line*—(a) *Source.* Brigadier generals of the line will be appointed only from persons other than officers on the active list of the Regular Army—(1) Whose names are borne on the eligible list prepared as indicated hereinafter and who are in one of the following classes:

(i) General officers of the line of the Army at any time between April 6, 1917, and June 30, 1919.

(ii) Colonels of the line of the Army.

(iii) Retired or former general officers and colonels of the line of the Regular Army.

(iv) Former general officers of the line of the Officers' Reserve Corps, including those appointed while federally recognized general officers of the line of the National Guard.

(2) Who are federally recognized brigadier generals of the line of the National Guard and have successfully passed the examination prescribed for Federal recognition for brigadier general of the line.

(b) *Eligible list*—(1) *Eligibility, how determined.* For the purpose of determining what persons are qualified to be appointed to the grade of brigadier general of the line, a list of such persons shall be prepared and revised annually by the board prescribed in the act of June 4, 1920 (41 Stat. 760), to prepare the eligible list for brigadier generals of the Regular Army. The eligible list shall be made up from the following classes:

(i) Persons mentioned in (a) (1) above.

(ii) Officers of the line of the Army, not below the grade of major, excepting officers on the active list of the Regular Army, who have graduated from the full course at the Command and General Staff School or from the corresponding schools formerly otherwise designated.

An applicant's name will be placed on the eligible list only after a thorough professional examination and careful consideration of the applicant's prior service, age, professional or business record, and standing in the community where he resides. When once placed on the eligible list, the name of an officer will remain thereon for five years, unless

[1] §§ 61.15 to 61.19 are added.

sooner removed for cause by the board engaged in the annual revision of the eligible list. The name of an officer may be continued on the eligible list at the expiration of each five-year period provided that at that time he demonstrate his continued fitness by taking and passing the practical test hereinafter prescribed as part of his original professional examination.

(2) *Professional examination.* (i) For the purpose of determining the professional qualifications of approved applicants, examinations will be held once each year at the place or places designated by the War Department. The scope and date for holding such examinations will be announced at least six months in advance. The examinations will consist of a written examination and a practical test. The written examination for all applicants in any one year will be conducted at the same time.

(ii) In order to secure unformity and a continuing policy, the written examination will be prepared at The Command and General Staff School for approval by the War Department, and will be so framed as to determine the applicant's qualifications to command a brigade of his own of the service in time of war, or a brigade of any other arm which the applicant may elect. The written examination may be supervised by one or more officers of the Army, designated by the commanders of the corps areas in which the examinations are to be held, but such officers may be other than members of the examining board. The written examination may be waived as follows:

For a period of three years from date of retirement or separation from the Regular Army in the cases of persons covered by (a) (1) (iii) above.

For a period of five years from date of graduation in cases of persons covered by (b) (1) (ii) above.

For a period of five years from the date of examination for the eligible list or for Federal recognition in the cases of persons covered by (a) (1), (iv) above.

(iii) The written examination will be followed by a practical test conducted by a board of three general officers of the line of the Army designated by the War Department. Practical tests will be conducted at places where the necessary troops are available and will include terrain exercises, tactical rides, and actual tests in troop handling, etc. Practical tests will be conducted in accordance with instructions to the board by the War Department, specifying the general principles to be followed. The practical test may be waived in the cases of persons covered in (a) (1) (iv) above, provided they shall have successfully passed the practical test within three years from the date of application for the eligible list.

(iv) The rating on the practical test awarded by the examining board, with the recommendation of the board in each case, will be forwarded with the applicant's written examination papers by the president of the board directly to The Command and General Staff School where the written papers will be marked. All the papers of each applicant will then be forwarded with the recommendation of the commandant of the school to the War Department. These papers, together with the officer's application and indorsements thereon, will be referred to the board convened under the provisions of (b) above.

(v) Whenever practicable, applicants who have been recommended by intermediate commanders for consideration for the eligible list, who do not come under the provisions of (b) (1) (ii) above, will before being examined be ordered as student officers to attend the full course of instruction at The Command and General Staff School, being placed on active duty for this purpose.*† [Par. 5]

§ 61.17 *Major general of the line.* Major generals of the line will be appointed only from persons other than officers on the active list of the Regular Army—(a) Who shall have successfully passed the professional examination prescribed by the War Department and who are in one of the following classes:

(1) Persons who served in the grade of major general of the line of the Army at any time between April 6, 1917, and June 30, 1919.

(2) Retired or former general officers of the line of the Regular Army at any time.

(3) Brigadier generals of the line of the Army.

(b) Who are federally recognized major generals of the line of the National Guard and have successfully passed the examination prescribed for Federal recognition for major general of the line.*† [Par. 6]

§ 61.18 *Reappointment of general officers of the line other than federally recognized general officers of the National Guard.* Upon the expiration of the five-year period of his appointment, a general officer of the line may be reappointed, provided that he demonstrate his continued fitness by passing the prescribed physical examination and—

(a) If a brigadier general, by passing a practical test before a board of general officers as prescribed for applicants for the eligible list; or

(b) If a major general, by passing such practical test as may be prescribed by the War Department.*† [Par. 7]

§ 61.19 *Appointment and reappointment of general officers of the staff.* Original appointments and reappointments will be made only after affirmative demonstration of ability to fill the definite office contemplated in each case, and when the duties involved render assignment or continuation in assignment advisable.

Application for appointment, accompanied by the report of the prescribed physical examination, will be forwarded with the recommendations of intermediate commanders to The Adjutant General by whom it will be referred to the chief of branch concerned for recommendation. All papers in the case will then be referred to the board provided for in § 61.16 (b) (1) for consideration and recommendation.

Reappointment may be made upon the recommendation of the chief of branch after the applicant shall have passed successfully the prescribed physical examination and such tests as the War Department may direct.*† [Par. 9]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-4329; Filed, June 17, 1941; 9:33 a. m.]

PART 93—TRANSPORTATION OF INDIVIDUALS [1]

SLEEPING-CAR AND SIMILAR ACCOMMODATIONS

§ 93.15 *When and to whom sleeping-car and similar accommodations furnished; allowances*—(a) *Standard accommodations.* (1) The following-named persons, when traveling under orders, are entitled at public expense to a lower berth in a standard sleeping car, or a seat in a parlor car:

(i) Officers and warrant officers, when traveling on duty with troops.

(ii) Officers and warrant officers, ordered to a hospital, post, or station, or transferred from one to another, for the purpose of undergoing medical or dental treatment; also when returned therefrom to their last previous duty stations upon completion of the treatment. See 9 Comp. Gen. 505.

(iii) Noncommissioned officers of first, second, and third grades, when traveling individually, or included in parties of nine persons, or less (i. e., enumerating noncommissioned officers of all grades, other enlisted men, flying cadets, applicants for enlistment and rejected applicants for enlistment, but not officers and warrant officers).

(iv) Army nurses.

(v) Members of the Reserve Officers' Training Corps while traveling, except by organizations, to and from camps of instruction, when not paid travel allowances.

(vi) Relative accompanying remains under the provisions of § 93.6 (a) (2) and (b) (3) (i).

(vii) Officers and warrant officers traveling without troops in an actual expense or per diem status as distinguished from a mileage status, e. g., repeated travel between two or more places in the same vicinity; travel on duty in connection with the National Guard or Organized Reserves; travel in Alaska and outside the limits of the United States in North America, except that they are entitled to a separate compartment for night railway travel in foreign countries.

(viii) Civilian candidates, Citizens' Military Training Camps, when transportation is furnished by the United States.

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[1] §§ 93.15 to 93.21 are added.

(ix) Cadets discharged from the United States Military Academy when traveling from the academy to their homes.

(2) Wives, dependent children, and dependent mothers whose transportation is authorized by § 93.1, are entitled to berths in a standard sleeping car, or seats in a parlor car, on the following basis, exclusive of the accommodations to which the individual changing station may be entitled under these regulations:

(i) *One lower berth.* (*a*) For wife alone.

(*b*) For dependent mother.

(*c*) For child alone.

(*d*) For wife and child under 6 years of age.

(*e*) For wife and female child over 6 years of age.

(*f*) For two children, same sex.

(*g*) For two children, opposite sex, both under 6 years of age.

(ii) *One section, or separated lower and upper berths.* (*a*) For wife and one child, male, over 6 years of age.

(*b*) For wife and two children.

(*c*) For two children, opposite sex, one or both over 6 years of age.

(iii) When the number of children exceeds two, accommodations for the additional children will be provided on the basis prescribed above for the first two children.

(iv) If a lower berth is not available, one upper berth may be furnished to each individual.

(v) The foregoing allowance is on the basis that all of the dependents of the individual changing station travel together at the same time. If the dependents travel separately and the total allowance becomes exhausted through being furnished the accommodations and/or by claiming monetary allowance in lieu thereof, no further accommodations may be furnished.

(vi) When the cost of the total allowance of berths for the dependents equals or exceeds the cost of a compartment, stateroom, or drawing-room, the latter may be furnished in lieu of berths, if desired. In other cases a compartment stateroom, or drawing-room may be furnished upon deposit with the issuing quartermaster of the excess cost thereof.

(vii) The excess cost of a compartment, stateroom, or drawing-room will be collected on the basis of the difference between the commercial rate therefor and the commercial rate for the allowance of berths, these rates being ascertained from or through the carrier's agents.

(viii) The amount deposited will be disposed of as prescribed in paragraph 20a (2), AR 30-920,[1] making reference to the serial numbers of all transportation requests involved.

(3) In certain cases, as prescribed in (b) (1) and (2) below, standard accommodations may be furnished when tourist accommodations are not available.

(b) *Tourist accommodations*—(1) *Nine persons, or less.* (i) Noncommissioned officers below the third grade traveling under orders, individually, or included in parties of nine persons or less (i. e., enumerating noncommissioned officers of all grades, other enlisted men, flying cadets, applicants for enlistment and rejected applicants for enlistment, but not officers and warrant officers), when the journey exceeds 12 hours and is scheduled to terminate after midnight, or when the journey involves spending a night on the train, are entitled to a separate berth each in a tourist sleeping car, except as provided in (3) below, an upper, if available; otherwise a lower. See subparagraph (4) below.

(ii) Enlisted men other than noncommissioned officers, and/or flying cadets, and/or applicants for enlistment, and/or rejected applicants for enlistment, traveling under orders, individually, or included in parties of nine persons or less (i. e., enumerating noncommissioned officers of all grades, other enlisted men, flying cadets, applicants for enlistment and rejected applicants for enlistment, but not officers and warrant officers), when the journey exceeds 12 hours and is scheduled to terminate after midnight, or when the journey involves spending a night on the train, are entitled to accommodations in a tourist sleeping car, except as provided in (3) below, on the following basis:

One person traveling, individually, will be furnished with an upper berth, if available; otherwise a lower. See subparagraph (4) below.

Parties of two to nine persons, both inclusive, will be furnished accommodations on the basis of two persons in a lower berth; the "odd-number" person, if any, to be furnished an upper. If an upper is not available for the "odd-number" person, he will be furnished a lower. See subparagraph (4) below.

(2) *Ten persons, or more.* Enlisted men (including all noncommissioned officers), and/or flying cadets, and/or applicants for enlistment, and/or rejected applicants for enlistment, traveling under orders and included in parties of 10 persons, or more (not enumerating officers and warrant officers), when the journey exceeds 12 hours and is scheduled to terminate after midnight, or when the journey involves spending a night on the train, are entitled to accommodations in a tourist sleeping car, except as provided in (3) below, on the basis of two persons in a lower berth; the "odd-number" person, if any, being entitled to an upper berth, provided that if there are more than a sufficient number of persons to occupy all the lower berths of an entire car on the basis of two persons in a berth, then the remaining persons will be furnished an upper berth each in the same car until its capacity is reached. For larger parties, accommodations in the second and succeeding cars will be furnished on the same basis as that prescribed above for the first car or a part thereof. See subparagraph (4) below. See also § 93.18.

(3) *Standard accommodations in lieu of tourist.* Whenever tourist-car berths are not available, then standard-car berths will be furnished under the same conditions and on the same basis as set forth in (1) and (2) above. See (4) below.

(4) *Alternative allowances; reservations.* The alternative allowances (upper and lower berths; tourist or standard accommodations) provided for in (1), (2), and (3) above contemplate the furnishing of the most economical accommodations available on the train (and connecting trains en route) with the persons enumerated are required to use so as to carry out their orders. The higher cost berths and/or accommodations should be utilized only for such distance that those of lower cost are not available. The quartermaster furnishing the transportation should endeavor, through the carrier's agent, to reserve, so far as practicable, the required accommodations for the entire journey, except that The Quartermaster General will arrange for accommodations in the case of movements (including troop movements) of parties of 15 persons or more.*† [Par. 2]

*§§ 93.15 to 93.21 issued under authority contained in R.S. 161; 5 U.S.C. 22.

†These regulations are also contained in AR 30-925, Oct. 8, 1935 as amended by C-1, Dec. 15, 1936. The particular paragraphs of the Army Regulations appear in brackets at the end of sections.

§ 93.16 *Physically disabled persons.* (a) Except as set forth in (b) and (c) below, physically disabled persons will be furnished the authorized sleeping-car accommodations of the class to which they are entitled, according to their rank or grade. One lower berth will be furnished each physically disabled person. Attendants will be provided for such physically disabled persons whenever the responsible medical officer shall determine that the necessity therefor exists. Attendants accompanying such physically disabled persons will be furnished the authorized accommodations to which they are entitled.

(b) Whenever a physically disabled person may be expected to be noisy, ill-mannered, unpresentable, or otherwise objectionable to the public, or is in such physical condition as to require exclusive accommodations, the responsible medical officer will furnish the quartermaster issuing the transportation request with a certificate, in duplicate, stating that the condition of the person requires exclusive accommodations. Attendants will be provided at all times for such physically disabled persons. Accommodations will be furnished for such physically disabled persons and their attendants in compartments or drawing rooms in parlor cars or sleeping cars where the total number of persons (physically disabled persons and attendants) in one movement is 14 or less. The responsible medical officer will

[1] Administrative regulations of the War Department relating to the transportation of individuals.

determine in each case of such movements the number of attendants required, the class of accommodations required (i. e., compartments or drawing rooms), and the total number of persons (physically disabled persons and attendants), not less than two, to occupy each compartment or drawing room. A statement of this determination will be included by the medical officer in the above-mentioned certificate furnished the quartermaster, who will attach the original thereof to the memorandum copy of the transportation request to be sent to the finance officer designated to pay the carrier's bill.

(c) *Fifteen persons, or more.* Where the total number of persons (physically disabled persons and attendants) in one movement is 15 or more, application will be made to The Quartermaster General for instructions in accordance with paragraph 8b, AR 30-930[1]. The provisions of (a) or (b) above, as the case may be, will apply to such movements, as determined and certified by the responsible medical officer to the quartermaster, depending upon the condition of the physically disabled persons, except that the medical officer will give due consideration to the use of special sleeping cars if feasible and more economical. If special sleeping cars are used, one lower berth will be furnished each physically disabled person. Attendants in the special sleeping cars will be furnished the authorized berth accommodations to which they are entitled.*† [Par. 3]

§ 93.17 *The insane.* (a) Whenever transportation is required for any person who is insane, or who is undergoing observation for insanity or mental disorders, the responsible medical officer will furnish the quartermaster issuing the transportation request with a certificate, in duplicate, as to such mental condition of the person. Attendants will be provided at all times for such mental cases. Accommodations will be furnished for such mental cases and their attendants in compartments or drawing-rooms in parlor cars or sleeping cars where the total number of persons (mental cases and attendants) in one movement is 14 or less. The responsible medical officer will determine in each case of such movements the number of attendants required, the class of accommodations required (i. e., compartments or drawing-rooms), and the total number of persons (mental cases and attendants), not less than two, to occupy each compartment or drawing-room. A statement of this determination will be included by the medical officer in the abovementioned certificate furnished the quartermaster who will attach the original thereof to the memorandum copy of the transportation request to be sent to the finance officer designated to pay the carrier's bill.

[1] Administrative regulations of the War Department relating to transportation of troops.

(b) *Fifteen persons, or more.* Where the total number of persons (mental cases and attendants) in one movement is 15 or more, application will be made to The Quartermaster General for instructions in accordance with paragraph 8b, AR 30-930.[1] The provisions of (a) above will apply to such movements, as determined and certified by the responsible medical officer to the quartermaster, except that the medical officer will give due consideration to the use of special coaches or sleeping cars if feasible and more economical. If special sleeping cars are used, one lower berth will be furnished each mental case. Attendants in the special sleeping cars will be furnished the authorized berth accommodations to which they are entitled.*† [Par. 4]

§ 93.18 *Attendants with remains.* Attendants with remains will be furnished with the authorized accommodations to which entitled, except that transportation requests for parlor-car or sleeping-car accommodations may not be furnished for officer attendants traveling in a mileage status.*† [Par. 7]

§ 93.19 *Charter of sleeping cars or parlor cars.* Special sleeping cars or parlor cars will not be chartered when the expense exceeds the cost of the berths and seats authorized to be furnished.*† [Par. 10]

§ 93.20 *Procedure* — (a) *Receipt for accommodations furnished.* Travelers will be instructed as to the requirements of paragraphs 4 and 5, AR 30-910[2], and that when, in exceptional cases, the face of the transportation request is indorsed by the quartermaster to cover "Tourist whenever available" (par. 10f, AR 30-910)[2], the traveler will indorse over his signature in the space provided on the back of the request a statement as to the points between which tourist accommodations are furnished. In case tourist becomes available en route and the transportation requests can not be indorsed on account of its having been lifted by the first conductor (there having been a change of conductors), then the traveler will promptly forward the statement to the quartermaster issuing the request, for transmittal to the finance officer designated to pay the carrier's bill; the statement will also cite the serial number of the transportation request.

(b) *Abandonment of journey; notice to agent.* If for any reason the journey is abandoned after a reservation has been made, the ticket agent making the reservation will be notified as early as practicable.

(c) *Accommodations less than called for, instructions to traveler.* Travelers will be instructed to promptly advise the quartermaster issuing the transportation request whenever the accommodations used are less than those called for by the request.*† [Par 11]

§ 93.21 *Accommodations at variance with transportation request.* The allowances hereinbefore authorized are on a space basis, and the procurement from a carrier on a transportation request of excess space of a lower class than that called for by the request is prohibited, even though no additional cost to the Government is involved, e. g., two lower tourist berths in lieu of a double berth in a standard sleeping car or seats in a parlor car in lieu of berths.*† [Par. 12]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-4330; Filed, June 17, 1941; 9:33 a. m.]

[2] Administrative regulations of the War Department relating to transportation requests.

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

PART 20—PILOT RATING

Correction

The paragraph designated as 8. in F.R. Doc. 41-4185 appearing at page 2870 of the issue for June 13, 1941, is corrected to read as follows:

8. By striking note 9 to § 20.34 (c) (1) and substituting in lieu thereof the following:

[9] See §§ 20.54 and 20.55 for distinction between aircraft types and airplane classes.

TITLE 25—INDIANS

CHAPTER I—OFFICE OF INDIAN AFFAIRS

PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

FLATHEAD IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

JUNE 3, 1941.

Section 130.24 of the Order, as amended by the Acting Assistant Secretary of the Interior on April 16, 1940 (5 F.R. 1629), is further amended to read as follows:

§ 130.24 *Charges.* Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Montana, on May 12, 1928, as supplemented by later contracts dated February 27, 1929, March 28, 1934, and August 26, 1936, notice is hereby given that an assessment of $75,000 is fixed for the season of 1942 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines of the Flathead Irrigation District. This assessment involves an area of approximately 68,393 acres, does not include any land held in trust for Indians, and covers all proper general charges and project overhead. (38 Stat. 583, 39 Stat. 142, 44 Stat. 945,

45 Stat. 210; 25 U.S.C. 385 and 387) [Regs. Acting Asst. Sec. Int. April 16, 1940, 5 F.R. 1629, as amended Asst. Sec. Int., June 3, 1941]

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 41-4332; Filed, June 17, 1941; 9:33 a. m.]

PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

MISSION IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

JUNE 3, 1941.

Section 130.26 of the Order, as amended by the Acting Assistant Secretary of the Interior on April 16, 1940 (5 F.R. 1629), is further amended to read as follows:

§ 130.26 *Charges.* Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Montana, on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented by later contracts dated June 2, 1934 and August 26, 1936, notice is hereby given that an assessment of $12,500 is fixed for the season of 1942 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines of the Mission Irrigation District. This assessment involves an area of approximately 10,854 acres, does not include any land held in trust for Indians, and covers all proper general charges and project overhead. (38 Stat. 583, 39 Stat. 142, 45 Stat. 210, 46 Stat. 291; 25 U.S.C. 385 and 387) [Regs. Acting Asst. Sec. Int. April 16, 1940, 5 F.R. 1629, as amended Asst. Sec. Int., June 3, 1941]

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 41-4333; Filed, June 17, 1941; 9:34 a. m.]

PART 130—ORDERS FIXING OPERATION AND MAINTENANCE CHARGES

JOCKO VALLEY IRRIGATION DISTRICT, FLATHEAD INDIAN RESERVATION, MONTANA

JUNE 3, 1941.

Section 130.28 of the Order, as amended by the Acting Assistant Secretary of the Interior on April 16, 1940 (5 F.R.-1629), is further amended to read as follows:

§ 130.28 *Charges.* Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation, Project, Montana, on November 13, 1934, approved by the Secretary of the Interior on February 26, 1935, as supplemented by a later contract dated August 26, 1936, notice is hereby given that an assessment of $6,000 is fixed for the season of 1942 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines of the Jocko Valley Irrigation District. This assessment involves an area of 4,879 acres, does not include any land held in trust for Indians, and covers all proper general charges and project overhead. (38 Stat. 583, 39 Stat. 142, 45 Stat. 210, 46 Stat. 291; 25 U.S.C. 385 and 387) [Regs. Acting Asst. Sec. Int. April 16, 1940, 5 F.R. 1629, as amended Asst. Sec. Int., June 3, 1941]

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 41-4334; Filed, June 17, 1941; 9:34 a. m.]

PART 161—LAW AND ORDER ON INDIAN RESERVATIONS

This part, as amended, is further amended by changing § 161.2 as hereinafter indicated.

§ 161.2 *Jurisdiction.* A Court of Indian Offenses shall have jurisdiction over all offenses enumerated in §§ 161.38–161.86NH, when committed by any Indian, within the reservation or reservations for which the Court is established, provided that such court on the Hopi Reservation shall also have jurisdiction to enforce against members of the tribe within the Hopi Reservation the ordinances passed by the Hopi Tribal Council which prohibit offenses against the peace and welfare of the tribe committed by such members off the Reservation.

With respect to any of the offenses enumerated in §§ 161.38–161.86NH, over which Federal or State courts may have lawful jurisdiction, the jurisdiction of the Court of Indian Offenses shall be concurrent and not exclusive. It shall be the duty of the said Court of Indian Offenses to order delivery to the proper authorities of the State or Federal Government or of any other tribe or reservation, for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

For the purpose of the enforcement of the regulations in this part, an Indian shall be deemed to be any person of Indian descent who is a member of any recognized Indian tribe now under Federal jurisdiction, and a "reservation" shall be taken to include all territory within reservation boundaries, including fee patented lands, roads, waters, bridges, and lands used for agency purposes.

All Indians employed in the Indian Service shall be subject to the jurisdiction of the Court of Indian Offenses but any such employee appointed by the Secretary of the Interior shall not be subject to any sentence of such Court, unless such sentence shall have been approved by the Secretary of the Interior. (R.S. 463, 38 Stat. 586; 25 U.S.C. 2, 200) [Chapter 1, sec. 1, Regs., Nov. 27, 1935, as amended May 28, 1941.]

HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 41-4331; Filed, June 17, 1941; 9:33 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Order No. 325]

PART 308—REPORTS AND RECORDS

ORDER REQUIRING ALL REGISTERED DISTRIBUTORS TO FILE WITH THE DIVISION CERTAIN INFORMATION WITH RESPECT TO PURCHASES AND RESALES OF COAL MADE BY THEM DURING THE PERIOD FROM OCTOBER 1, 1940, TO MAY 31, 1941, BOTH DATES INCLUSIVE

Pursuant to the provisions contained in Part 304 (Rules and Regulations for the Registration of Distributors), 5 F.R. 2345, the agreements filed with the Division by all applicants for registration as distributors, and other authority granted by law,

It is ordered, That Part 308 is hereby amended by adding thereto § 308.23 to read as follows:

§ 308.23 *Purchases and resales by registered distributors.* Each registered distributor shall file with the Bituminous Coal Division, 734 15th Street NW., Washington, D. C., on or before July 10, 1941, the following information with respect to the purchases and resales of bituminous coal made by him from October 1, 1940, to May 31, 1941, both dates inclusive:

(a) Name, address and registration number.

(b) The tonnage purchased during each month (1) direct from code members, (2) from sales agents of code members, (3) from other registered distributors; giving the name and address of each such code member, sales agent or registered distributor.

(c) Total tonnage purchased during each month (1) upon which discounts were allowed, and (2) upon which no discount was allowed.

(d) The total tonnage resold during each month in less than carload lots (or other retail transactions).

(e) The name and address of each retailer to whom coal was resold and the tonnage resold to each by months. Indicate which, if any, of such retailers are in any manner affiliated with you. (For this purpose only "affiliated" means the existence of a relationship whereby the distributor and any such retailer are under common control, or where either has a financial interest in the other.)

(f) Tonnages by month resold to (1) other registered distributors, (2) other distributors, not registered, (3) railroads, (4) all other purchasers, specified, if possible, by type or nature of their business. (Sec. 4 II (h); 50 Stat. 81; 15 U.S.C. Sup. § 833 (h)).

Dated: June 13, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-4302; Filed, June 16, 1941; 11:05 a. m.]

[Docket Nos. A-80, A-101, A-207, A-275, A-282]

PART 322—MINIMUM PRICE SCHEDULE, DISTRICT NO. 2

PART 327—MINIMUM PRICE SCHEDULE, DISTRICT NO. 7

PART 340—MINIMUM PRICE SCHEDULE, DISTRICT NO. 20

ORDER OF THE DIRECTOR APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE EXAMINER, AND GRANTING CERTAIN PERMANENT RELIEF IN THE MATTERS OF THE PETITIONS OF DISTRICT BOARDS NOS. 2, 7 AND 20, AND D. E. PITZENBARGER, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

Original petitions pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with the Bituminous Coal Division by District Boards 2, 7 and 20, and by D. E. Pitzenbarger, a code member in District No. 7; and

These five proceedings having been consolidated by Order of the Director dated November 30, 1940, and temporary relief pending final disposition of the proceedings having been granted by various Orders of the Director for the reasons and to the extent set forth in such Orders; and

A hearing having been held before a duly designated Examiner of the Division in Washington, D. C., on December 2 and 3, 1940; and

The issues relating to the coals of the Brule Mine (Mine Index No. 32) of the Brule Smokeless Coal Company mine having been severed and tried separately from the other issues involved in Docket No. A-282, the entry of a separate report and Order of the Director in due course with respect to these coals being contemplated; and

The Examiner having made proposed Findings of Fact and Conclusions of Law in this matter, dated April 17, 1941; and

An opportunity having been afforded to all parties to file exceptions thereto and supporting briefs, and no such exceptions or supporting briefs having been filed; and

The Director having determined that the proposed Findings of Fact and Conclusions of Law of the Examiner should be approved and adopted as the Findings of Fact and Conclusions of Law of the Director:

It is, therefore, ordered, That the proposed Findings of Fact and Conclusions of Law of the Examiner be, and the same are hereby, approved and adopted as the Findings of Fact and Conclusions of Law of the Director; and

It is further ordered, That § 322.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement I-A, § 322.9 (*Special prices*—(c) *Railroad fuel*) is amended by adding thereto Supplement I-B, § 322.23 (*General prices*) is amended by adding thereto Supplement I-C, § 327.11 (*Low volatile coals: Alphabetical list of code members*) is amended by adding thereto Supplement II-A, § 327.34 (*General prices in cents per net ton for shipment into any market area*) is amended by adding thereto Supplement II-B, § 340.4 (*Code member price index*) is amended by adding thereto Supplement III-A and § 340.21 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement III-B, which aforementioned supplements are hereinafter set forth and made a part hereof.

It is further ordered, That the consideration of the classifications and minimum prices of No. 1 mine (Mine Index No. 588) of the Marianna Smokeless Coal Company be, and it is hereby, eliminated from this proceeding.

It is further ordered, That the temporary price classifications and minimum prices established in Docket No. A-282, by Order of the Director dated November 12, 1940, 5 F.R. 4539, for the coals of the Brule mine (Mine Index No. 32) of the Brule Smokeless Coal Company are continued in effect pending further order of the Director.

Dated: June 2, 1941.

[SEAL] H. A. GRAY, *Director.*

FOR ALL SHIPMENTS EXCEPT TRUCK

NOTE: The material in these appendixes is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 322, Minimum Price Schedule for District No. 2 and supplements thereto.

§ 322.7 *Alphabetical list of code members*—Supplement I-A

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group Nos.]

Mine index No.	Code member	Mine name	Subdist. No.	Seam	Freight origin group No.	Size group Nos. 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
281	Arison & Ranells	Arison	3	Pittsburgh	80	G	G	H	H	H	H	H	H	H							
336	Ford Coal Co	Pittspenn (Strip)	7	Pittsburgh	74	L	L	J	J	J	J	K	K	K							
343	Fryske & Nole (John T. Nole)	Baker (Strip)	7	Pittsburgh	74	G	G	F	F	H	H	H	H	H							
345	Marshall Mining Company	Wahn (Strip)	1	No. 7	121			C	C	B	B	B	B								
1467	Siler & Tepe Coal Co. (Jacob Siler)	Curry (Strip)	7	Pittsburgh	75	C	C	C	C	F	F	F	F	F							
346	Smithfield Coal Co	Hayden	3	Sewickley	114	J	J	H	H	H	H	F	H	H							
670	Solar Fuel Co	Alice	7	Pittsburgh	85		C	C	C	F	F	F	F	F							
685	Traenkner Coal Co	Thompson	8	Upper Freeport	41	E	E	D	D	D	D	D	D	D							
1421	Washington Coal Co. (Joseph R. Marco)	Washington	2	Upper Freeport	90						E										

§ 322.9 *Special prices—(c) Railroad fuel*—Supplement I–B

In § 322.9 (c), Minimum Price Schedule for District No. 2, add the mine index numbers in groups shown: Group 2, 336, 343, 670, 1,467; Group 7, 281; Group 8, 346; Group 9, 685; Group 10, 345; Group 21, 1,421.

All mines in Freight Origin Group 85, will take the same necessary or permissible adjustments as Freight Origin Groups Nos. 73 and 75.

FOR TRUCK SHIPMENTS

§ 322.23 *General prices*—Supplement I–C

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Seam	Base sizes										
				Lump over 4"	Lump 4"	Lump 3"	Lump 2"	Egg 2" x 4"	Stove 1" x 4'	Pea ¾" x 1¼"	Run of mine	2" N/S	1¼" slack	¾" slack
				1	2	3	4	5	6	7	8	9	10	11
ALLEGHENY COUNTY														
Cristoff Coal Co.	1735	Cristoff	Redstone	275	265	255	230	215	215	210	220	180	170	160
ARMSTRONG COUNTY														
Mars Coal Co.	1736	Rodgers	Kittanning	270	260	250	230	225	215	200	205	185	175	165
BEAVER COUNTY														
Marshall Mining Company	345	Wahn (Strip)	#7	300	290	280	275	250	245	225	225	185	175	165
BUTLER COUNTY														
Herman Block Coal Co.	248	Herman #1	Kittanning	325	310	300	290	280	270	250	240	210	200	190
Wike, F. B.	1781	Wike	M. Kittanning	325	305	285	265	260	245	245	230	190	180	170
FAYETTE COUNTY														
Arison & Ranells	281	Arison	Pittsburgh	290	280	270	250	230	220	215	220	205	200	175
Harding, John Jr. (Gans Coal Co.)[1]	1734	Hester	Pittsburgh	290	280	270	250	230	220	215	220	205	200	175
Smithfield Coal Co. (Wm. F. Brooks).	346	Hayden	Sewickley	275	265	255	240	220	210	210	210	195	190	175
Victor Coal Co. (A. L. Brautegam).	1776	Victor #2	Pittsburgh	290	280	270	250	230	220	215	220	205	200	175
WASHINGTON COUNTY														
Donina Coal Co.	1745	Donina	Pittsburgh	295	285	275	250	240	225	210	225	190	175	170
Fryske & Nole (John T. Nole).	343	Baker (strip)	Pittsburgh	280	270	260	235	230	215	205	215	180	170	160
Nagode, Frank	1789	Nagode	Pittsburgh	255	245	240	220	200	190	185	190	170	165	155
WESTMORELAND COUNTY														
B. C. & L. Coal Co.	1751	Larimer	Freeport	275	265	255	235	225	220	215	215	195	185	175
Bush Custom Mine (Hazel Bush, Sr.).	1740	Bernadette	Pittsburgh	275	265	255	235	225	220	215	215	195	185	175
Canova, Angelo	1742	Canova	Pittsburgh	280	270	260	245	240	230	210	215	195	185	175
Sirofchuck, Jacob	1738	Jakes #2	Redstone	265	255	245	230	225	215	195	200	180	170	160
Stanislav, John	1727	Ferry	Pittsburgh	265	255	245	225	205	200	195	205	185	175	165

[1] Formerly Thomas Wolfe (Wolfe Mine).

FOR ALL SHIPMENTS EXCEPT TRUCK

NOTE: The material in these appendixes is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 327, Minimum Price Schedule for District No. 7 and supplements thereto.

§ 327.11 *Low volatile coals: Alphabetical list of code members*—Supplement II–A

[Alphabetical list of code members having railway loading facilities, showing price classifications by size groups for all uses except as separately shown]

Mine index No.	Code member	Mine name	Subdist. No.	Low volatile seam	Freight origin group No.	Price classifications by size group Nos.									
						1	2	3	4	5	6	7	8	9	10
516	Brewster, T. J.	Excelsior	4	War Creek	30	D	D	D	E	E	E	D	H	H	H
518	D. P. Coal Company c/o D. P. Pitzenbarger	Burley	1	Sewell	19	D	D	C	A	A	B	B	C	C	C
680	Elco Coal Co.	Elco	2	Sewell	10	A	A	A	A	A	A	A	B	B	B
535	Evans, H. W. (Evans Pocahontas Coal Co.).	Evans	4	Welch	30	B	(†)	(†)	(†)	(†)	B	B	D	D	D
538	S. & H. Pocahontas Coal Co.	#1	3	Poca. #3	20	B	B	A	A	A	B	B	C	C	C
217	Standard Fire Creek Coal Company.	Beelick Knob	1	Fire Creek	17	D	D	C	A	A	(*)	(*)	(*)	(*)	B
219	Greenbrier Smokeless Coal Company.	Laurel Creek	1	Fire Creek	17	D	(†)	(†)	(†)	(†)	B	B	B	B	B

*Indicates coal in this size group previously classified and priced.
†Indicates no classifications effective for these size groups.

FOR TRUCK SHIPMENTS

§ 327.34 *General prices in cents per net ton for shipment into all market areas*—Supplement II–B

Code member index	Mine index No.	Mine	Sub-dist. No.	County	Seam	All lump ¾" or larger, all egg and stove	All nut or pea 1¼" top size or smaller	Screened M/R	Straight mine run	1¼" screenings	¾" screenings
						1	2	3	4	5	6
Blevins, A. H.	683	#1	5	Raleigh	Beckley	315	250	280	215	195	190
Brewster, T. J.	516	Excelsior	4	McDowell	War Creek	290	225	(*)	(*)	165	(*)
Crookshanks, Marvin	685	Crookshanks	1	Greenbrier	Poca. #6	290	250	270	205	185	180
D. P. Coal Company c/o D. P. Pitzenbarger.	518	Burley	1	Greenbrier	Sewell	290	250	(*)	(*)	(*)	(*)
Evans, H. W. (Evans Pocahontas Coal Co.).	535	Evans	4	McDowell	Welch	315	250	(*)	(*)	190	(*)
Hunter, J. R.	720	Brown's Creek	1	Greenbrier	Poca. #6	290	250	270	205	185	180
Kauff, J. L.	684	Dimmock #2	2	Fayette	Fire Creek	315	250	280	215	195	190
Lynch, Chas. A.	691	Coolridge	2	Raleigh	Beckley	315	250	280	215	195	190
Osborne, Wiley	682	Osborne	3	McDowell	Poca. #3	315	250	280	215	190	185
Pitzenbarger, D. E.	692	Ethel	1	Greenbrier	Poca. #6	290	250	280	215	190	185
Plumley, J. L.	681	Plumley	2	Raleigh	Big Eagle	290	250	280	215	190	185
S. & H. Pocahontas Coal Co. (A. J. Stewart).	538	#1	3	McDowell	Poca. #3	315	250	(*)	(*)	190	(*)
Standard Fire Creek Coal Company.	217	Beelick Knob	1	Fayette	Fire Creek	290	250	(*)	(*)	(*)	(*)
Greenbrier Smokeless Coal Company.	219	Laurel Creek	1	Greenbrier	Fire Creek	290	(†)	280	215	190	185

*Indicates coal in this size group previously classified and priced.
†Indicates no classifications effective for these size groups.

FOR ALL SHIPMENTS EXCEPT TRUCK

NOTE: The material in these Appendixes is to be read in the light of the instructions, exceptions and other provisions contained in Part 340, Minimum Price Schedule for District No. 20 and supplements thereto.

§ 340.4 *Code member price index*—Supplement III–A

Insert the following in proper alphabetical order:

Producer	Mine	Mine index No.	County	Sub-dist. price group
Duncan & Kump	Duncan	180	Carbon	No. 1
Eccles Canyon Coal Co., The	Eccles Canyon	181	Carbon	No. 1
Nyman, Carl	National	179	Carbon	No. 1
Sutton, Lloyd D	Blue Flame	175	Carbon	No. 1
Morgan, James H	Coal Hollow	176	Kane	No. 2
Jacobson, Peter	Black Hawk	177	Summit	No. 3
Red Creek Coal Mining Co	Red Creek	173	Duchesne	No. 3

§ 340.2 *General prices in cents per net ton for shipment into all market areas*—Supplement III–B

Insert the following Code member names, mine names, counties and prices in proper alphabetical order according to Sub-District number:

Code member, mine name	County	Size groups														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
SUB-DISTRICT NO. 1																
Duncan & Kump, Duncan Mine.	Carbon	404	364	349	329	334	274	249	209	199	169	159	134	254	224	199
Eccles Canyon Coal Co., The, Eccles Canyon.	Carbon	420	380	365	345	350	290	265	225	215	185	175	150	270	240	215
Nyman, Carl, National Mine	Carbon	420	380	365	345	350	290	265	225	215	185	175	150	270	240	215
Sutton Lloyd D., Blue Flame	Carbon	380	340	325	305	310	250	225	185	175	145	135	110	230	200	175
SUB-DISTRICT NO. 2																
Morgan, James H., Coal Hollow.	Kane	345	310	300	290	290	235	220	185	180	150	145	145	225	200	185
SUB-DISTRICT NO. 3																
Jacobson, Peter, Black Hawk	Summit	345	310	300	290	290	235	220	185	180	150	145	145	225	200	185
Red Creek Coal Mining Co., Red Creek.	Duchesne	345	310	300	290	290	235	220	185	180	150	145	145	225	200	185

[F. R. Doc. 41–4301; Filed, June 16, 1941; 11:04 a. m.]

[Docket No. A–639]

PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

ORDER OF THE DIRECTOR GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 8 FOR PRELIMINARY AND PERMANENT ORDER OF CHANGE IN CLASSIFICATION OF SIZE GROUPS 1–4, INCLUSIVE, COALS PRODUCED IN DISTRICT 8 BY THE YOUGHIOGHENY AND OHIO COAL COMPANY FOR SHIPMENT TO ALL MARKET AREAS

An original petition having been filed with the Bituminous Coal Division on January 31, 1941, by District Board 8, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, seeking reclassification of the coals of the Van #1 Mine (Mine Index No. 476) of the Youghiogheny and Ohio Coal Company, a code member in District 8, in Size Groups 1–4, from "G" to "K", for shipment to all market areas; and

An intervening petition having been filed on March 14, 1941 by Detroit Mining Company, a code member in District 8, in support of the original petition and requesting the same relief for its No. 2 Mine (Mine Index No. 162); and

A hearing having been held in this matter, pursuant to Orders of the Director dated March 10 and 18, 1941, before a duly designated Examiner of the Division at a hearing room of the Division, Walker Building, Washington, D. C., on March 18, 1941, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard; and

The preparation and filing of a report by the Examiner having been waived, and the matter thereupon having been submitted to the Director; and

The Director having made Findings of Fact and Conclusions of Law and having rendered an Opinion in this matter, which are filed herewith:

It is ordered, That § 328.11 (*Alphabetical list of code members*) be and it is hereby amended as follows:

The effective price classifications for the coals produced at the Van #1 Mine (Mine Index No. 476) of Youghiogheny and Ohio Coal Company, and at the No. 2 Mine (Mine Index No. 162) of Detroit Mining Company, in District 8, in Size Groups 1–4, are reduced from "G" to "K", for shipment to all market areas, including Great Lakes cargo.

It is further ordered, That the relief requested in the several petitions filed herein be and it is granted to the extent set forth above, and in all other respects, denied.

Dated: June 16, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41–4341; Filed, June 17, 1941; 10:09 a. m.]

TITLE 50—WILDLIFE

CHAPTER I—FISH AND WILDLIFE SERVICE

PART 92—REGULATIONS OF THE ALASKA GAME COMMISSION RELATING TO GUIDES, POISONS, AND LICENSES

By virtue of the authority conferred upon the Alaska Game Commission by the act of January 13, 1925, entitled "An Act to establish an Alaska Game Commission to protect game animals, land fur-bearing animals, and birds in Alaska, and for other purposes", (43 Stat. 739, as amended February 14, 1931, 46 Stat. 1111; U. S. Code, title 48, secs. 192–211, and June 25, 1938, 52 Stat. 1169 (48 U. S. Code 192–211), the administration of which said act, as amended, was transferred to the Secretary of the Interior on July 1, 1939, pursuant to Reorganization Plan No. II (53 Stat. 1431), the following regulations for the protection of game animals, land fur-bearing animals, and birds in Alaska are made and published, to take effect July 1, 1941:

§ 92.1 *Employment of guides by nonresidents and aliens.* Nonresidents of the Territory or aliens taking game animals for any purpose, or polar bears for sport or trophies, or going afield to photograph large brown or grizzly bears, except nonresident Federal officials engaged in wildlife investigations in Alaska exempted by special permit of the Commission, are required to employ and be accompanied by a guide registered with and licensed by the Commission; but no such guide shall accompany in the field more than one nonresident or alien, except husband and wife and minor child all of whom are in possession of the required hunting license.

In cases of actual emergency when a bear is attacking or is about to escape after being wounded, it shall be the duty of the guide to take such action as he deems necessary.* [Regulation A]

*§§ 92.1 to 92.4, inclusive, issued under the authority contained in 43 Stat. 739, 46 Stat. 1111, 52 Stat. 1169; 48 U.S.C. and Sup., 192–211.

§ 92.2 *Qualifications for guide licenses and issuance thereof.* Only resident citizens who have resided in the Territory for the 5 years immediately preceding application for registration and a guide license will be registered and licensed to act as guides for nonresidents and aliens taking game animals for any purpose, or polar bears

for sport or trophies, or going afield to photograph large brown or grizzly bears.

The Alaska Game Commission will establish guide districts and maintain a register of such persons as are duly qualified and licensed to act as guides in such districts.

Applications for such registration and guide license shall be made on a form issued by the Commission and shall state applicant's citizenship and resident status, age, physical characteristics, permanent address, and district or districts in which he desires to operate, together with full information relative to his qualifications to act as guide, and shall be subscribed and sworn to by the applicant before an officer authorized to administer oaths.

Upon receipt of such application the Commission, through one of its members or such person as it shall designate, will arrange to determine by such written and oral examinations and otherwise as it shall require, the qualifications of such applicant to act as a guide and his knowledge of the Alaska Game Law and regulations.

The member of the Commission or other person authorized to conduct such examination shall promptly file his report thereof with the Commission, together with his recommendation thereon, which report and recommendation shall be attached to the application and considered and determined at a regular or special meeting of the Commission.

If the Commission determines that the applicant does not possess sufficient field experience to qualify him to act as a principal guide but has all other qualifications, an assistant guide license may be issued to him, which shall authorize him to act as assistant to a principal guide.

In cases of emergency the Executive Officer of the Commission may, after investigation and satisfying himself of an applicant's qualifications, issue a special guide license to him upon payment of the required fee, authorizing him to guide the nonresident or alien hunter named in the application for such special license.

Extension or renewal of guiding privileges authorized by any guide license shall be made, in the discretion of the Commission, only upon examination and approval as hereinbefore provided.

A registered guide license must bear the signature of the Executive Officer of the Commission. Each license shall expire on June 30 next succeeding its issuance, shall be revocable at the discretion of the Commission, and shall not be transferable.

Each licensed guide shall submit to the Commission, immediately upon completion of a hunting or photographing trip, a report containing the name and address of the nonresident or alien for whom he acted as guide, period covered by his services, number and species of animals taken, wounded and not secured, numbers and localities of each species of big game animal observed on the trip and such other information as the Commission may require.*

§ 92.3 [Regulation C] *Designation and use of poison.* Pursuant to section 9 of the Alaska Game Law, the following substances are by the Commission designated poisons: Strychnine, arsenic, phosphorus, antimony, barium, the cyanides, corrosive sublimate, or any derivative or derivatives, compound or compounds thereof, which, by said section 9, are forbidden.

(1) to be used at any time to kill any game or wild fur-bearing animal or bird.

(2) to be put out where any game or wild fur-bearing animal or bird may come in contact with it.

(3) to be sold or given to any hunter or trapper, or

(4) to be possessed by any hunter or trapper.

Any person selling or otherwise disposing of any of the aforesaid poisons is required by said section 9 of the Alaska Game Law to keep a record in a special book showing the name and address of each person purchasing or otherwise procuring said poison, and the kind and amount thereof, such record to be, at all times, open to inspection by any wildlife agent or other officer authorized to enforce the Alaska Game Law and information thereof to be transmitted monthly to the Alaska Game Commission.* [Regulation B]

§ 92.4 *Resident trapping and hunting licenses.* No resident of the Territory over 16 years of age, except a native-born Indian or Eskimo, shall take game animals, land fur-bearing animals, or birds in the Territory without first having obtained a resident hunting license for game animals or birds or a trapping license for land fur-bearing animals, but a person who is the holder of such trapping license shall be entitled to the privilege of hunting game animals or birds during the respective open seasons without a hunting license.

On and after July 1, 1941, all former regulations of the Alaska Game Commission relative to guides, poisons, and resident hunting and trapping licenses shall be and are hereby revoked.* [Regulation D]

In testimony whereof, we have hereunto set our hands and caused the official seal of the Commission to be affixed in the City of Juneau, Territory of Alaska, this 14th day of February, 1941.

EARL N. OHMER,
Commissioner First Judicial Division and Chairman.

FRANK P. WILLIAMS,
Commissioner Second Judicial Division.

ANDREW A. SIMONS,
Commissioner Third Judicial Division.

JOHN HAJDUKOVICH,
Commissioner Fourth Judicial Division.

FRANK DUFRESNE, *Secretary, Executive Officer, Chief Representative of Fish and Wildlife Service resident in Alaska.*

[F. R. Doc. 41-4284; Filed, June 16, 1941; 10:31 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-735]

PETITION OF DISTRICT BOARD 11, REQUESTING REVISION OF THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR DISTRICT 11 COALS PRODUCED FOR RAIL SHIPMENT TO FORT CUSTER, BATTLE CREEK, MICHIGAN, MARKET AREA NO. 21

MEMORANDUM ORDER AND OPINION CONCERNING TEMPORARY RELIEF

This proceeding was instituted upon an original petition filed by the Bituminous Coal Producers Board for District No. 11. The petition was filed on March 11, 1941, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 and prays for a revision of the effective minimum prices for District No. 11 by providing for deductions in mine prices based upon difference in freight rates between mines in District No. 11, on shipments to Fort Custer, (Battle Creek) Michigan, in Market Area No. 21.

Intervening petitions were filed by the Bituminous Coal Producers Board for Districts No. 8 and 10 and by the Consumers' Counsel Division.

On June 13, 1941, this matter came on to a formal hearing before Examiner Travis Williams pursuant to a Notice of Order for Hearing dated March 21, 1941, and an Order dated May 13, 1941. At the close of said hearing the original petitioner filed a written motion praying that temporary relief be granted upon the basis of the record of this hearing.

Only the original petitioner appeared at the hearing. Upon the basis of the record made at the hearing it appears that:

The Schedule of Effective Minimum Prices for District No. 11, For All Shipments Except Truck, provides for deductions for freight rate differences among District No. 11 mines on shipments to certain market areas, but does not make, for reasons set forth in the Finding of Fact in General Docket No. 15, similar provisions with respect to other market areas, including Market Area No. 21. Fort Custer, Battle Creek, Michigan, is located in Market Area 21. Hence under the currently effective minimum prices for District 11, Indiana coals of the same classification in some instances do not deliver at Fort Custer at the same price, although they are priced to deliver at a parity at many other points, such as Chicago, Market Area 29. The code members in District No. 11 shipping to Fort Custer on higher freight rates are therefore at a disadvantage in competing for business therein. At least one such code member has already suffered actual damage and loss of business because of the current differential in delivered prices in favor of lower rate mines. The Office of the Quartermaster of the United

States Army for the 6th Corps Area, Chicago, Illinois has recently issued Invitation No. 199–41–450–FO dated June 5, 1941, returnable June 19, 1941, for bids on 43,000 tons of 6" x 2" egg coal and 3,000 tons of 1¼" x ⅜" stoker coal for consumption at the cantonment at Fort Custer, Michigan, during the fiscal year beginning July 1, 1941. It is urged that unless temporary relief is granted forthwith, as requested in the original petition, code members in District No. 11 with higher freight rates will be denied fair competitive opportunities to participate in this tonnage which is being purchased for consumption over a period of one year. It is claimed that the relief prayed for will permit all coals in the same classifications, produced in the various sub-districts of District No. 11, to deliver to Fort Custer (Battle Creek), Michigan, Market Area No. 21 at the same price relationship as is currently effective in Market Area No. 29 and certain other market areas.

Notwithstanding the fact that the Bituminous Coal Producers Boards for Districts 8 and 10 and the Consumers' Counsel Division filed intervening petitions in opposition to the granting of the relief requested no appearances were filed by such parties at the hearing herein.

In view of the foregoing circumstances, it appears to the Director that a reasonable showing of necessity has been made for the granting of the temporary relief requested, pending final disposition of this proceeding; that an adequate showing has been made of actual or impending injury in the event that such relief is not granted; and that an adequate showing has been made that other interested persons will not be unduly prejudiced by the granting of such relief pending final disposition of this proceeding.

Now, therefore, it is ordered, That pending final disposition of the above-entitled matter temporary relief is granted as follows: Commencing forthwith the Schedule of Minimum Prices for District No. 11 For All Shipments Except Truck, is temporarily supplemented to include the following table of deductions for differences in freight rates:

Market Area No. 21

Freight origin group numbers and the amount of deduction for freight rate differences for coal shipped from mines included in each freight origin to destination as listed below:

Destination	Producing subdistricts					
	BC	LS	PA[a]	PA[b]	BO	EV
	30, 32, 33, 34, 40, 42, 43	60, 61, 62, 63, 64, 65, 67, 80, 81	10, 70, 71, 72	12	20, 21	51, 52
Fort Custer	None	10	17	20	20	35

[a] For all mines in the Princeton-Ayrshire subdistrict not located on the Southern Railway.
[b] For all mines in the Princeton-Ayrshire subdistrict located on the Southern Railway.

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Nothing herein shall be deemed to constitute an adjudication of, or an expression of, an opinion concerning the merits of the original petition.

Dated: June 16, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–4337; Filed, June 17, 1941; 10:07 a. m.]

[Docket No. A–846]

PETITION OF DISTRICT BOARD 13 FOR THE ESTABLISHMENT OF MINIMUM PRICES FOR CERTAIN COALS PRODUCED IN DISTRICT 13

[Docket No. A–846, Part II]

PETITION OF DISTRICT BOARD NO. 13 FOR THE ESTABLISHMENT OF PRELIMINARY AND PERMANENT PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF MINE INDEX NO. 826 OF THE MARKET STREET COAL COMPANY AND MINE INDEX NO. 729 OF THE PATTON COAL MINING COMPANY FOR RAIL SHIPMENT INTO MARKET AREA 112

MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF; SEVERING DOCKET NO. A–846, PART II, FROM DOCKET NO. A–846 AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A–846, PART II

The original petition in the above-entitled matter, as amended, prays for the establishment of price classifications and minimum prices for the coals of certain mines in District No. 13. By an order previously entered in Docket A–846 temporary and conditionally final relief was granted to a number of mines on whose behalf relief was prayed in the original petition. Among the mines included in that petition are the Market Street Coal Company mine, Mine Index No. 826, of the Market Street Coal Company and the Jonita Mine, Mine Index No. 729 of the Patton Coal Mining Company. These mines are located in Subdistrict No. 3 of District No. 13. The original petition in Docket A–846 alleged that these mines do not have rail connections, but truck coal to Chattanooga, Tennessee, where it is loaded in cars on the Southern Railroad. The petition prayed that the prices on behalf of Mine Index Nos. 729 and 826 apply only for delivery by rail into Market Area 112.

The prices proposed for these mines involve an absorption of intervening transportation charges to the rail loading points, apparently designed to accomplish a competitive delivered relationship with coals of similar analytical quality produced in the same subdistrict. Price Instruction 11, as set forth in Supplement No. 1 to the Schedule of Effective Minimum Prices for District No. 13 For All Shipments Except Truck, provides that, "where coal is sold by a code member f. o. b. a point other than transportation facilities at the mine there shall be added to the applicable minimum f. o. b. mine price provided in this schedule an amount at least equal as nearly as practicable to the actual transportation charges, handling charges, or incidental charges of whatsoever kind or character (exclusive of customary costs of mine operation), from the transportation facilities at the mine, to the point from which all such charges are consumed and directly paid by the purchaser: *Provided, however,* That code members may make application to the Director of the Bituminous Coal Division for permission to add to the f. o. b. mine price a sum less than the estimated actual cost of such transactions, upon a showing that such is necessary to preserve existing fair competitive opportunities."

With respect to Mine Index No. 729 and 826, the petition involves an application to add less than the estimated actual cost of transporting coal to the rail loading point, pursuant to the proviso of Price Instruction 11. As hereinafter set forth, the Director is of the opinion that a reasonable showing of necessity for the granting of temporary relief has been made.

However, in the light of the issue raised under Price Instruction 11 the Director is of the opinion that permanent prices for Mine Index Nos. 729 and 826, for shipment by rail to Market Area 112, should not be established without a hearing.

Now, therefore, it is ordered, That the portion of Docket A–846 relating to Mine Index Nos. 826 and 729 is hereby severed from the remainder of Docket No. A–846 and is designated as Docket A–846, Part II.

It is further ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on July 15, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 15th Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in

the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before July 11, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

It is further ordered, That a reasonable showing of the necessity therefor having been made pending final disposition of the above-entitled matter, temporary relief be, and the same hereby is, granted as follows: Commencing forthwith and pending final disposition of the petition herein the Schedule of Effective Minimum Prices for District No. 13 For All Shipments Except Truck is revised to provide for the coals referred to in the Temporary Supplement, dated this day, annexed hereto and made a part hereof, of the price classifications and minimum prices provided therein.

Notice is hereby given that application to stay, modify or terminate the temporary relief granted in this Order may be filed in accordance with the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Act.

Dated: June 16, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-4338; Filed, June 17, 1941; 10:07 a. m.]

[Docket No. A-848]

PETITION OF DISTRICT BOARD 7 FOR REVISION OF THE PRICE CLASSIFICATIONS AND MINIMUM PRICES HERETOFORE ESTABLISHED FOR THE BLACK EAGLE MINE (MINE INDEX NO. 23) OF THE BLACK EAGLE SMOKELESS COAL COMPANY, A CODE MEMBER IN DISTRICT 7

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on July 18, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734, Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Mitchell or any other officer of officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before July 12, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the revision of the effective price classifications and minimum prices established for the coals of the Black Eagle Mine (Mine Index No. 23) of Black Eagle Smokeless Coal Company, a code member in District 7, in Size Group 3 from C to E, in Size Group 4 from A to D and in Size Groups 8 and 9 from C to B.

Dated: June 16, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-4336; Filed, June 17, 1941; 10:07 a. m.]

[Docket No. A-849]

PETITION OF DISTRICT BOARD 7 FOR REVISION OF THE PRICE CLASSIFICATIONS AND MINIMUM PRICES HERETOFORE ESTABLISHED FOR COALS OF THE WYCO MINE (MINE INDEX NO. 207) OF THE GULF SMOKELESS COAL COMPANY, A CODE MEMBER IN DISTRICT 7

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on July 21, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Cuff or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before July 16, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the revision of the effective

price classifications and minimum prices established for the coals of the Wyco Mine (Mine Index No. 207) of the Gulf Smokeless Coal Company, a code member in District 7, in Size Group 2 from F to G and in Size Group 3 from E to F.

Dated: June 16, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-4335; Filed, June 17, 1941; 10:07 a. m.]

DEPARTMENT OF AGRICULTURE.

Surplus Marketing Administration.

[Docket No. AO 117-A1]

NOTICE OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT AND ORDER NO. 45, REGULATING THE HANDLING OF MILK IN THE WASHINGTON (DISTRICT OF COLUMBIA) MARKETING AREA, INCLUDING AMENDMENTS ENLARGING THE MARKETING AREA TO INCLUDE ADDITIONAL TERRITORY IN MARYLAND AND VIRGINIA

Notice is hereby given of a hearing to be held in the Departmental Auditorium, on Constitution Avenue between Twelfth and Fourteenth Streets NW., Washington, D. C., beginning at 9:30 a. m., e. s. t., June 23, 1941, on proposed amendments to the tentatively approved marketing agreement and Order No. 45, regulating the handling of milk in the Washington (District of Columbia) marketing area.

This notice is given pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and of the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture.

This public hearing is for the purpose of receiving evidence with respect to proposed amendments:

(1) Revising the definition of the Washington marketing area so that it reads as follows: "The term 'Washington marketing area,' hereinafter referred to as the 'marketing area,' means the territory included within the boundary lines of the following, with all streets and roads, used as boundaries, to include both sides of such streets and roads:

"Beginning at Fort Washington on the Potomac River, proceeding easterly along the old Fort Washington Road to Selesia. About one mile north of Selesia on the Selesia-Oxon Hill Road, turning right on the Allentown Road to Camp Springs, and along the Meadows Road to Meadows on Route 4. Proceeding on Route 4 easterly through Marlborough and Wells Corner to Hill Bridge on the Patuxent River. Following the course of the river northerly and westerly to Route 29 at Snell Bridge. Thence proceeding southerly along Route 29 to Ashton, taking Route 28 through Sandy Spring to Olney to Norbeck. Thence westerly through Redland on Route 115-1-2-3 to Smiths Corner, and then Route 124-5 through Washington Grove to Gaithersburg. In Gaithersburg from Route 124-5 to Brooks Avenue, and right on Russell Avenue to Maryland Avenue. West along Maryland Avenue to Frederick Avenue and southerly on Route 124-6 to Quince Orchard. Thence on Route 28 to Darnestown. Route 112-1-2 from Darnestown to Seneca. From Seneca along the road bordering the great Seneca Creek to the Potomac River, and along the northerly banks of the Potomac River to Fort Washington.

"Beginning at the southwest bank of the Potomac River, where it joins the District of Columbia on the Virginia side southerly along said river to Highway 218 and then due west along Route 218 to Fredericksburg. From Fredericksburg northwest on Route 17 to Morrisville, and northeast on Route 233 to Catlett. Thence northeast on Route 233 to the junction with Route 28 and northwest along Route 28 to the junction of Routes 28 and 211 (or 29), northeast along Routes 211 or 29 to Centerville, and north on Route 28 to the junction with Route 7 at Dranesville. Then south 4.3 miles on Route 7 to Great Falls Road and northeast to the boundary of the Potomac River and the Virginia line. Then along the Virginia bank of the Potomac River to the starting point";

(2) Revising the definition of the marketing area so as to make it conform with the boundary lines used by the Washington Suburban Sanitary Commission;

(3) Revising the definition of Class II milk so as to eliminate from the definition chocolate milk and whole milk drinks, but to include flavored milk drinks;

(4) Revising the definition of Class III milk to include ice cream or ice cream mix manufactured by a handler, milk or cream used for manufacturing purposes, and all milk the utilization of which is not classified as Class I or Class II;

(5) Revising the definition of Class III milk so as to provide that any milk not classified in Class I and Class II shall be considered as Class III milk;

(6) Increasing the price of Class I milk, including Class I milk disposed of to low-income groups;

(7) Deleting the price for Class II milk disposed of by a handler from a plant not having a permit to sell milk or cream in the District of Columbia;

(8) Revising the Class III price so as to provide a price based upon the standing offer of the Maryland and Virginia Milk Producers Association, Inc.;

(9) Revising the price for Class III milk so as to calculate it on western cream prices based on the Chicago butter market;

(10) Amending the provision requiring reports of handlers so as to provide for the submission of producer pay rolls on or before the twenty-first day after the end of each delivery period;

(11) Amending the provision for payments to producers so as to provide for payments on or before the twentieth day after the end of each delivery period;

(12) Providing for the computation of the utilization of milk in accordance with the amount of butterfat in each classification;

(13) Amending the butterfat differential provision so as to make independent laboratory tests compulsory;

(14) Revising the definition of handler so as to delete the exemption to handlers subject to the regulation of the Virginia Milk Commission;

(15) Revising the provision relating to location adjustments to producers so as to provide that District of Columbia producers transferred to plants more than 35 miles from the District of Columbia shall receive the District of Columbia price for four full months;

(16) Deleting all reference to new producers;

(17) Amending the provision providing for expense of administration so as not to levy assessements on milk sold in Virginia by handlers located in the marketing area;

(18) Providing for a market-wide equalization pool instead of an individual handler pool;

(19) Providing for certain administrative changes.

It is hereby declared that an emergency exists in the handling of milk in the Washington (District of Columbia) marketing area which requires a shorter period of notice than fifteen (15) days; and it is hereby determined that the period of notice given is reasonable under the circumstances.

Copies of the proposed amendments may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., in Room 0310 South Building, or may be there inspected.

[SEAL] PAUL H. APPLEBY,
Under Secretary of Agriculture.

JUNE 16, 1941.

[F. R. Doc. 41-4346; Filed, June 17, 1941; 11:19 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 59-11]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY AND ITS SUBSIDIARY COMPANIES, RESPONDENTS

[File No. 59-17]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, THE UNITED LIGHT AND RAILWAYS COMPANY, AMERICAN LIGHT & TRACTION COMPANY, CONTINENTAL GAS & ELECTRIC CORPORATION, UNITED AMERICAN COMPANY, AND IOWA-NEBRASKA LIGHT AND POWER COMPANY, RESPONDENTS

[File No. 54-25]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, APPLICANT

STATEMENT OF TENTATIVE CONCLUSIONS OF THE COMMISSION, ORDER CONSOLIDATING PROCEEDINGS, AND NOTICE OF AND ORDER RECONVENING HEARINGS IN SAID PROCEEDINGS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 13th day of June, A. D. 1941.

Pursuant to respondents' request and the Commission's undertaking by its order entered June 1, 1940 (in proceedings under section 11 (b) (1) of the Public Utility Holding Company Act of 1935, File No. 59-11), there are set forth hereinafter the Commission's tentative conclusions as to action which should be taken by the respondents under the provisions of section 11 (b) (1). Since respondents' request for such conclusions was made at the outset of the proceeding, the views here expressed must of necessity be entirely tentative in character.

For the reasons hereafter set forth we are at this time consolidating the pending proceedings under sections 11 (b) (1) and 11 (b) (2), and appropriate references will be made hereafter to both said proceedings.

I. *Applicable Statutory Provisions*

SEC. 11 (b) (1). Section 11 (b) (1) of the Public Utility Holding Company Act of 1935 makes it the duty of the Commission to require by order, after notice and opportunity for hearing, that each registered holding company system take such action as the Commission shall find necessary to limit its operations to a single integrated public utility system, and to such other businesses as are reasonably incidental or economically necessary or appropriate, to the operations of such integrated public utility system, subject to the proviso that additional integrated public utility systems may be retained provided that they meet the standards set forth in Clauses (A), (B), and (C) of that subsection.

Clause (B) of section 11 (b) (1) sets forth, as one of the conditions on the retention of additional systems under common control with a single system, that:

> All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country.

Interpretation of clause (B). Pursuant to similar requests for tentative conclusions in other proceedings[1] pending under section 11 (b) (1) of the Act, we have tentatively concluded that the standard established by Clause (B) in that section permits a holding company to continue to control an integrated public utility system or systems additional to the "single integrated public utility system" referred to in section 11 (b) (1) *only* if all such additional systems are located in the same state or states in which the "single" system is located or in states adjoining the state where the "single" system is located. We follow this tentative conclusion as the interpretation of Clause (B) and have used it in reaching the tentative conclusions hereinafter set forth with respect to the holding company system of The United Light and Power Company.[2]

SEC. 11 (b) (2). Section 11 (b) (2) of the Act deals with corporate simplification of holding company systems and requires among other things the elimination of undue and unnecessary complications in corporate structure and appropriate action to bring about fair and equitable distribution of voting power.

II. *The Proceedings to Date*

The United Light and Power Company registered as a holding company on February 18, 1938 under the Public Utility Holding Company Act of 1935. On March 8, 1940, the Commission issued a Notice of and Order for Hearing pursuant to section 11 (b) (1) of the Act with respect to The United Light and Power Company and its subsidiary companies, respondents (File No. 59-11). The Notice of and Order for Hearing directed that a hearing be held to determine what action, if any, was necessary and should be required to be taken by the respondents to limit the operations of the holding company systems of each of the respondent registered holding companies to a single integrated public utility system, together with such other businesses or additional systems as might be retained under section 11 (b) (1) of the Act.

Subsequent thereto, The United Light and Power Company and various of its subsidiary companies requested that they be furnished with a statement of the Commission setting forth the Commission's tentative conclusions with respect to what action the Commission tentatively believed would be required by section 11 (b) (1) of the Act. The respondents' request was similar to that made by the respondents in the similar proceeding involving The United Gas Improvement Company.[3] Following our decision in that case, we indicated that the request would be granted and postponed the proceeding subject to our further order, pending the issuance of the statement of tentative conclusions. The proceedings have accordingly been held in abeyance pending the issuance of the statement requested.

On the basis of further examination of the problems of this holding company system, we concluded that achievement of the objectives of section 11 would best be promoted by the taking of concurrent action under section 11 (b) (2), requiring corporate simplification of holding companies. Accordingly, we directed our Public Utilities Division to prepare a report regarding the problems of this holding company system under section 11 (b) (2). Such a report was prepared and proceedings under section 11 (b) (2) instituted (File No. 59-17). With these proceedings were consolidated an application for approval of a recapitalization plan filed by The United Light and Power Company under section 11 (e) (File No. 54-25).

On March 20, 1941, as a result of hearings held up to that time in the proceedings under section 11 (b) (2), we entered an order directing the dissolution of The United Light and Power Company, the top holding company in the holding company system and also directing the dissolution of United American Company, an intermediate holding company.[4] The order reserved jurisdiction to take such further action as might be appropriate.

Before issuing statements of tentative conclusions in other pending proceedings, we have, in each case, based our action upon consideration of a detailed report prepared for our use and for the information of interested persons by our Public Utilities Division. In the present case, we have not believed it necessary to direct the completion by our Public Utilities Division of a separate report concerning this holding company system under section 11 (b) (1). The report already prepared and published under section 11 (b) (2) and contained in the

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[1] *In the Matter of The United Gas Improvement Company*, File No. 59-6, Holding Company Act Release No. 2500; *In the Matter of Engineers Public Service Company*, File No. 59-4, Holding Company Act Release No. 2607; *In the Matter of The Commonwealth & Southern Corporation*, File No. 59-8, Holding Company Act Release No. 2626.

[2] Briefs have been filed with respect to the interpretation of Clause (B) of section 11 (b) (1) in two of the above proceedings (Engineers Public Service Company and The Commonwealth & Southern Corporation). We are now considering the question presented in these briefs. In the event that we should modify our tentative conclusion, we will by supplemental order revise this statement correspondingly.

[3] For the Commission's views as to the considerations leading to the issuance of this statement, see *The United Gas Improvement Company*, Holding Company Act Release No. 2065.

[4] *The United Light and Power Company, et al.*, Holding Company Act Release No. 2636.

record of the 11 (b) (2) proceedings[4a] sets forth detailed financial and operating information regarding the holding company system, including the location of the various properties controlled by this holding company. Furthermore, our tentative conclusions here expressed with respect to the geographical limitations of operations are based entirely, at least for the present, upon our interpretation of Clause (B) of section 11 (b) (1). As we have indicated, this interpretation follows the tentative interpretation which we have already announced in three other cases.

As we have stated, we have already, in the proceedings under section 11 (b) (2), directed the dissolution of The United Light and Power Company, the top holding company; that order also directed the dissolution of the United American Company, an intermediate holding company. As a result of complying with that order, and assuming that sale or other disposition is effected of the interest of this holding company system in Northern Natural Gas Company,[5] there will remain in the holding company system three major holding companies (The United Light and Railways Company, American Light & Traction Company and Continental Gas & Electric Corporation) and two operating-holding companies (Iowa-Nebraska Light and Power Company and Columbus and Southern Ohio Electric Company).

It is indicated in the Report of the Public Utilities Division that there may be some question as to the ultimate necessity of more than one major holding company in the holding company system. Particularly in view of the fact that disposition of issues under section 11 (b) (1) may facilitate determination of this and other questions under section 11 (b) (2), we do not at this time express even a tentative conclusion on this point.[6] However, we shall, in our order reconvening the hearing, direct that among the specific questions for further determination will be that of the necessity of more than one major holding company for this holding company system.

III. *Holding Company Systems*

The names of the holding companies and of the operating companies which are respondents in these proceedings are set forth in the orders instituting the respective proceedings. A corporate chart of the holding company system is contained in our findings previously issued directing the dissolution of The United Light and Power Company (Holding Company Act Release No. 2636). As indicated in those findings, there are at the present time seven registered holding companies in the holding company system. Arranged according to corporate ownership with relationships indicated by indentations, these companies are as follows:

The United Light & Power Co.
  The United Light & Railways Co.
    United American Co.
      American Light & Traction Co.*
    Continental Gas & Electric Corporation.
  Iowa-Nebraska Light & Power Co.
  Northern Natural Gas Co.

*American Light & Traction Company, by virtue of split ownership of its common stock, is a direct subsidiary both of United American Company and of The United Light and Railways Company.

In order to express tentative conclusions pursuant to section 11 (b) (1), it is necessary for us to consider in turn each of the registered holding companies which are respondents. As defined in section 2 (a) (9) of the Act, a holding company system includes any holding company together with all of its subsidiary companies. Under this definition, therefore, it is evident that the holding company system of the top holding company (The United Light and Power Company) comprehends all of the subsidiaries, direct and indirect; in other words, it includes all of the companies which are respondents in either of the pending proceedings.

Each of the other registered holding companies, however, has similarly a holding company system of its own, which includes the holding company in question together with its own subsidiaries. It is thus evident that some operating companies will be parts of several holding company systems; the number of such holding company systems of which a company is a part is of course dependent upon the number of tiers of companies superimposed on the operating company in question. For example, Kansas City Power & Light Company is a subsidiary of Continental Gas & Electric Corporation, which is in turn a subsidiary of The United Light and Railways Company and in turn a subsidiary of The United Light and Power Company. Accordingly, Kansas City Power & Light Company is a part of the holding company system of each of these three holding companies, i. e., The United Light and Power Company, The United Light and Railways Company and Continental Gas & Electric Corporation.

In discussing the application of section 11 (b) (1) of the Act to the respondents, therefore, we will consider first the application of the applicable standards of the Act to each holding company system in turn. For this purpose, it is appropriate to commence at the bottom of the pyramid and to conclude with the holding company system of The United Light and Power Company, which as indicated comprehends within it all of the holding company systems of the various subholding companies.

IV. *Application of Section 11 (b) (1) of the Act*

A. *Iowa-Nebraska Light and Power Company.* Iowa-Nebraska Light and Power Company operates electric and gas properties in the southwestern portion of the State of Iowa and gas properties in eastern Nebraska. Recently it sold to a public power district substantially all the electric properties which it formerly operated in the State of Nebraska. Through a subsidiary, Maryville Electric Light and Power Company, it conducts electric and gas operations in northwestern Missouri in a service area adjoining the territory served in Iowa.

We do not at this time attempt to determine how many "integrated public utility systems" are comprised by the utility assets of Iowa-Nebraska Light and Power Company. Neither do we believe it necessary at this time to determine the extent to which, under the standards of clauses (A) and (C) of section 11 (b) (1), such systems may be retained under common control together with whatever system is determined to be the "single" integrated public utility system. We believe it sufficient for the present to indicate our tentative views as to the character of major action required to be taken by the respondents, leaving this question for further determination, particularly in the light of whatever dispositions may voluntarily be made in the interim by Iowa-Nebraska Light and Power Company.

B. *Northern Natural Gas Company.* Northern Natural Gas Company is a registered holding company. Of its common stock 35% is owned by The United Light and Railways Company and it is, therefore, a subsidiary of that company and of The United Light and Power Company. The company operates a natural gas pipe line and sells gas at wholesale in various states located from Texas to Minnesota. Through its wholly-owned subsidiaries, Argus Natural Gas Company, Inc. and Peoples Natural Gas Company, it also conducts retail gas operations in Iowa, Nebraska, Kansas and Minnesota.

The United Light and Power Company and The United Light and Railways Company have already filed an application in these proceedings to dispose of their interest in Northern Natural Gas Company. We believe that at this time primary emphasis should be placed upon the more important problems confronting the major holding companies in The United Light and Power Company holding company system. Accordingly, we do not at this time express any view as to the number of integrated public utility systems operated or controlled by Northern Natural Gas Company, nor as to the extent to which such systems may

[4a] The facts in the report as originally issued were, with minor corrections, agreed to by the respondent, and a corrected copy of the report was placed in the record by agreement.

[5] Respondents have represented that they propose to sell their interest in Northern Natural Gas Company (in application No. 1 in case No. 59–17, and in case No. 70–286).

[6] No request has been made for a statement of our tentative conclusions as to what action should be taken under section 11 (b) (2).

be retained by Northern Natural Gas Company.

The disposition of the interest of The United Light and Railways Company in Northern Natural Gas Company is incident, and in fact under the company's plans necessary, to the dissolution of The United Light and Power Company, a step already ordered to be taken under section 11 (b) (2). Applying the standards of section 11 (b) (1), and in the light of the other circumstances of the case, we accordingly reach the tentative conclusion that The United Light and Power Company and The United Light and Railways Company should dispose of their interest in Northern Natural Gas Company. We reserve for further determination the extent to which Northern Natural Gas Company should itself take action to comply with the requirements of section 11 (b) (1) as applied to its own holding company system.

C. *Continental Gas & Electric Corporation.* The public utility subsidiaries of Continental Gas & Electric Corporation, together with the states in which they operate, are as follows:

Kansas City Power & Light Co.	Missouri, Kansas and Iowa.
Columbus & Southern Ohio Electric Co.	Ohio.
Point Pleasant Water & Light Co.	West Virginia.
Iowa-Nebraska Light & Power Co.	Iowa, Nebraska
Maryville Electric Light & Power Co.	Missouri.
Panhandle Power & Light Co.	Texas.
Cimarron Utilities Co.	Oklahoma.
Kansas Power Transmission Co., Inc.	Kansas.
Guymon Gas Co.	Oklahoma.
Peoples Gas & Electric Co.	Iowa.

In addition to these utility subsidiaries, Continental Gas & Electric Corporation has the following non-utility subsidiaries operating in the respective states indicated:

The Lincoln Traction Co.	Nebraska.
Huntsville - Sinclair Mining Co.	Missouri.
Hume - Sinclair Coal Mining Co.	Missouri.
Hillsboro Ice & Coal Co.	Ohio.

1. *The single integrated system.* Kansas City Power & Light Company is the largest of the public utility subsidiaries of Continental Gas & Electric Corporation, and indeed, of any company in The United Light and Power Company holding company system. With the exception of isolated properties located in Mason City, Iowa, and Morton County, Kansas, its properties comprise electric generating, transmission, and distribution facilities serving the City of Kansas City, Missouri and a surrounding area located in the states of Missouri and Kansas. On the basis of such tentative examination as we have made of information available to us, we have tentatively concluded that these properties (sometimes hereafter referred to as the "Kansas City Electric System") constitute an integrated public utility system.

The respondents have indicated [7] that they consider the Kansas City Electric System as the principal public utility system which they wish to retain and that they wish to base the remainder of their holding company system upon such properties as can be retained with, or as can under the statutory standards be acquired in addition to, the Kansas City Electric System. Since this public utility system is owned by Continental Gas & Electric Corporation, we consider, for present purposes, the electric facilities in and around Kansas City (the Kansas City Electric System) as the "single integrated public utility system" to which the operations of the holding company system of Continental Gas & Electric Corporation should be limited, subject to the retention of such additional systems as may be permitted under Clauses (A), (B) and (C) of section 11 (b) (1).

2. *Properties not possible of retention under clause (B) of section 11 (b) (1).* In considering the application of Clause (B) of section 11 (b) (1) we apply to the various other properties in the holding company system of Continental Gas & Electric Corporation our tentative interpretation of this statutory provision with reference to the Kansas City Electric System as the "single" system. The Kansas City Electric System is located in Missouri and to some extent in Kansas. Accordingly, under Clause (B) as we tentatively interpret it, there can not be retained, as additional systems to the Kansas City Electric System within the same holding company system, any of the utility properties located in states which do not adjoin Kansas and Missouri. These properties are in Ohio, West Virginia and Texas. Accordingly, we tentatively conclude that disposition must be made by Continental Gas & Electric Corporation of its interests in Columbus and Southern Ohio Electric Company, Point Pleasant Water and Light Company, and Panhandle Power & Light Company.

3. *Nonutility properties.* For present purposes we do not attempt to reach conclusions with respect to whether the various non-utility properties owned by Continental Gas & Electric Corporation are reaonably incidental or economically necessary or appropriate to the operations of particular utility properties. It may be noted, however, that of these non-utility properties The Hillsboro Ice and Coal Company is located in the same general area as Columbus and Southern Ohio Electric Company; accordingly we tentatively conclude that these properties must be disposed of.

[7] In the testimony of H. B. Munsell, vice president of The United Light and Power Company, at the hearing preceding the entry of our order directing the dissolution of that company pursuant to section 11 (b) (2), (Order of March 20, 1941, in File No. 59-17.)

We do not deem it necessary for present purposes to consider whether the other non-utility properties may ultimately be retained under the control of Cointinental Gas & Electric Corporation.

4. *Application of clauses (A) and (C) of section 11 (b) (1).* Upon the disposition of the properties hereinbefore referred to, that is, those not located in states adjoining Missouri and Kansas, there will remain in the holding company system of Continental Gas & Electric Corporation properties located in Missouri, Kansas, Iowa, Nebraska and Oklahoma. For the present, we do not deem it necessary to consider the extent to which systems located in these states may be susceptible of retention under Clauses (A) and (C) of section 11 (b) (1).[8]

We are of the opinion that the consideration of problems presented under Clauses (A) and (C) may be facilitated after an order has been entered requiring the disposition of other properties in accordance with our tentative interpretation of Clause (B). Our opinion in this respect is based in part upon the possibility of changed circumstances in the event that the holding company system should transfer its principal base of operations to Kansas City; upon the possibility that the holding company system, as so limited, may acquire other properties in the Kansas City area, the acquisition of which might change the nature of the problems presented under Clauses (A) and (C); and upon the possibility that the holding company system may voluntarily dispose of some of these properties.

We of course reserve jurisdiction to consider at any appropriate time the question of what other properties may be retained under the standards of Clauses (A) and (C). For the present, however, we express no conclusion as to whether the utility properties operated by the following Companies may be retained together with the property of Kansas City Power & Light Company under the standards of Clauses (A) and (C) of the Act as applied to the holding company system of Continental Gas & Electric Corporation:

Iowa-Nebraska Light & Power Co.
Maryville Electric Light & Power Co.
Cimarron Utilities Co.
Kansas Power Transmission Co., Inc.
Guymon Gas Co.
Peoples Gas & Electric Co.

D. *American Light & Traction Co.* American Light & Traction Company has the following utility subsidiaries which operate in the respective states shown:

Michigan Consolidated Gas Co.	Michigan.
Milwaukee Gas Light Co.	Wisconsin.
Madison Gas & Electric Co.	Wisconsin.
San Antonio Public Service Co.	Texas.

In addition, this holding company has certain non-utility subsidiaries, the

[8] These clauses limit the retention of additional systems on the basis of standards dealing with economies and size of combinations of systems.

names of which, together with the names of the states in which they conduct their businesses, are as follows:

Milwaukee Coke & Gas Co.	Wisconsin.
Milwaukee Solvay Coke Co.	Wisconsin.
American Michigan Pipe Line Co.	Michigan.
American Production Co.	Michigan.
Consolidated Building Co.	Wisconsin.
American Coal Co.	Texas.
South Texas Ice Co.	Texas.
Waverly Company.[9]	

[9] Waverly Company is a New Jersey corporation wholly owned by American Light & Traction Company. Its sole investment consists of $190,000 principal amount of notes of American Michigan Pipe Line Company.

In addition to its subsidiaries, American Light & Traction Company has a major investment in The Detroit Edison Company, comprising approximately 20.6% of the common stock of that company. We have held, upon application of The Detroit Edison Company, that the latter company is not a subsidiary of American Light & Traction Company, or of The United Light and Railways Company, or of The United Light and Power Company.[10]

American Light & Traction Company also owns securities of International Paper and Power Company, consisting of common stock and common stock purchase warrants, which are carried on its books at cost. At December 31, 1940, these securities were carried at $4,351,073, and according to the company, had a quoted market value at that date of $1,026,118.

Michigan Consolidated Gas Company is by far the largest of the four utility subsidiaries of American Light & Traction Company. As of December 31, 1940, the investment of American Light & Traction in the Michigan company was carried at a net figure of approximately $33,700,000, as compared with a total combined net investment of approximately $23,600,000 in the other three utility subsidiaries (Madison Gas and Electric Company, Milwaukee Gas Light Company and San Antonio Public Service Company). Expressed in terms of gross revenues, a comparison yields similar results: for the year ended December 31, 1940, the gross revenues of the Michigan company were approximately $24,100,000; those of Madison Gas and Electric Company were about $2,700,000; of Milwaukee Gas Light Company about $6,300,000; and of San Antonio Public Service Company about $9,400,000, or a total for the latter three companies of only about $18,400,000.

Considering the Michigan company itself, it may be noted that by far the bulk of its revenues (approximately 85%) are derived from its operations in and around the city of Detroit. In addition to its operations in that area, it conducts gas operations in three other areas in Michigan, centering around the towns of Muskegon, Grand Rapids and Ann Arbor.

We do not at this time consider it appropriate to express tentative conclusions as to whether all of the gas properties operated by Michigan Consolidated Gas Company comprise a "single" integrated public utility system.[11] Neither do we deem it necessary to consider, assuming that these properties are not part of a "single" system, whether they might be retained as additional systems to the Detroit property under the standards of Clauses (A) and (C). Nor do we deem it necessary to express a tentative determination at this time as to whether the Milwaukee or the Madison properties may be retained as additional systems to any of the Michigan properties under the standards of Clauses (A) and (C).

Whatever may be ultimately determined with respect to the Michigan and Wisconsin properties under the requirements of section 11 (b) (1), it is evident that the San Antonio property may not be retained under common control with the other properties of American Light & Traction Company consistently with the standards of Clause (B) of section 11 (b) (1). From a realistic standpoint, it is evident that the Detroit gas property, together with whatever other Michigan properties, if any, as may be considered part of the same system, constitutes the principal public utility system under the control of American Light & Traction Company. Considering this property as the "single" system therefore we tentatively conclude, under our present interpretation of Clause (B), that disposition must be made of the interest of American Light & Traction Company in San Antonio Public Service Company.

The same result would follow if one of the other utility properties of American Light & Traction located in Michigan or in Wisconsin were considered as the "single" system. Conversely, if San Antonio Public Service Company were considered as the "single" system, then none of the Michigan or Wisconsin properties could be retained under our tentative interpretation of Clause (B).

With respect to the non-utility properties under the control of American Light & Traction Company, we do not at this time attempt to consider whether any of them are reasonably incidental or economically necessary or appropriate to the operations of particular utility properties. We do, however, express the tentative opinion that with respect to the operations of the Michigan and Wisconsin utility properties, those non-utility businesses conducted in Texas are not reasonably incidental or economically necessary or appropriate. Accordingly, it is our tentative conclusion that disposition must be made of the interest of American Light & Traction Company in South Texas Ice Company and American Coal Company. With respect to the other non-utility businesses, which are conducted in Michigan and Wisconsin, we express no tentative determination at this time.

With respect to the investments of American Light & Traction in Detroit Edison Company and in International Paper and Power Company, we have already decided (*The United Gas Improvement Company*, Holding Company Act Release No. 2692) that investments in utility companies which are not subsidiaries may be retained only where such investments are reasonably incidental or economically necessary or appropriate to the operations of the holding company's utility subsidiaries. It is our tentative opinion that the investment in stock of Detroit Edison Company does not meet this statutory standard and accordingly must be disposed of. Similarly, we express the tentative conclusion that the retention of the stock of International Paper and Power Company is not reasonably incidental or economically necessary or appropriate to the operations of the holding company system's utility properties and that disposition must therefore be made of the interest of the holding company system in that stock.

E. *United American Company.* United American Company is a registered holding company by virtue of its ownership of approximately 20% of the common stock of American Light & Traction Company. The holding company system of United American Company consists of the same physical properties as those comprised in the holding company system of American Light & Traction Company. Both for this reason, and in view of the fact that we have already ordered that United American Company be liquidated and dissolved (Holding Company Act Release No. 2636), it is unnecessary for us to consider further the application of the standards of section 11 (b) (1) to United American Company.

F. *The United Light and Railways Company*

The United Light and Railways Company is a subholding company of The United Light and Power Company, and has in turn as its principal subsidiaries the following registered holding companies:

Continental Gas & Electric Corporation.
American Light & Traction Co.
United American Co.
Northern Natural Gas Co.

The application of the standards of section 11 (b) (1) has already been discussed with respect to the holding company system of each of these subholding companies. In addition to these subsidiaries, the United Light and Railways Company also has as a direct subsidiary United Power Manufacturing Company, a public utility company operating in Iowa; it also has a direct non-utility subsidiary, The United Light and Power Industrials, Inc., which through other subsidiaries operates certain non-utility businesses in Iowa.

[10] *The Detroit Edison Company*, 7 S.E.C., 968, (1940), Holding Company Act Release No. 2208.

[11] In our findings at the time we approved the consolidation of Detroit City Gas Company and the other companies at that time merged into the present Michigan Consolidated Gas Company, we indicated that we were making no finding with respect to what action might be required to be taken by this company under the terms of section 11 (b) (1) (*American Light & Traction Company, et al.*, 3 S.E.C., 969, 977, Holding Company Act Release No. 1272).

The tentative conclusions heretofore expressed with respect to Continental Gas & Electric Corporation are equally applicable to an analysis of the holding company system of The United Light and Railways Company. In fact, it was in connection with a program for making The United Light and Railways Company into the top holding company of the holding company system that the respondents indicated that they wished to consider the Kansas City Electric System as the principal or "single" system around which other properties would be built up.

In applying the standards of section 11 (b) (1) to The United Light and Railways Company holding company system, it is necessary to consider all of the utility properties controlled by this holding company, regardless of the intermediate holding company through which such control is exerted. Accordingly, considering the Kansas City Electric System as the single system, and applying the standards of Clause (B) as we have tentatively interpreted them, it is evident that none of the American Light & Traction properties can be retained together with the Kansas City Electric System, since those properties are located in the states of Michigan, Wisconsin and Texas, none of which adjoin the states of Missouri and Kansas. As we have already indicated, The United Light and Railways Company proposes to dispose of its interest in Northern Natural Gas Company; it is therefore unnecessary for us to consider the application of Clauses (A) and (C) to the properties owned by that company as related to the other utility property of the holding company system.

There remains for us to consider whether the property of United Power Manufacturing Company can be retained under common control with the Kansas City Electric System. Iowa adjoins Missouri, and accordingly the standards of Clause (B) do not prevent such retention. However, a substantial question may exist under Clauses (A) and (C). For present purposes we do not consider it necessary to express a tentative determination on this question and reserve it for further consideration.

G. *The United Light and Power Company.* The United Light and Power Company has as its principal asset the common stock of The United Light and Railways Company. In addition, it owns directly the common stock of the so-called "First Lien" properties,[12] and the common stock of The United Light and Power Service Company. With the exception of LaPorte Gas and Electric Company, operating in Indiana, the First Lien companies conduct utility and other operations in Iowa and Illinois.

As has been already set forth, we have, by our order of March 20, 1941 in the section 11 (b) (2) proceedings, directed that The United Light and Power Company be dissolved. In that order we directed the company to submit an appropriate plan for carrying out such dissolution, and reserved jurisdiction in these proceedings to consider such a plan or to consider such other steps as might be appropriate for that purpose. In view of these changed circumstances, which have arisen since our previous indication that we would furnish a statement of tentative conclusions with respect to The United Light and Power Company holding company system, we deem it unnecessary at this time to express tentative conclusions as to what properties might be retained by The United Light and Power Company itself under the provisions of section 11 (b) (1).

It may be noted, however, that since the common stock of The United Light and Railways Company is the principal asset of The United Light and Power Company, the considerations already discussed with respect to The United Light and Railways Company holding company system are equally applicable to The United Light and Power Company holding company system. In addition to the properties controlled through The United Light and Railways Company, The United Light and Power Company owns the so-called First Lien companies. Of these companies, LaPorte Gas and Electric Company operates in the State of Indiana; since that state does not adjoin the States of Missouri and Kansas, it is appropriate for us to express the tentative conclusion that in order to comply with our tentative interpretation of Clause (B) it can not be retained together with the other First Lien properties and must be disposed of.

For the reasons indicated, it is unnecessary for us to discuss the possibilities of retention, with any other properties now in The United Light and Power Company Holding Company system, of the other First Lien properties, which are located in Iowa and Illinois. Upon the dissolution of The United Light and Power Company the question of the acquisition of these properties by some other company may be dealt with in light of the applicable standards of the act.

V. *Consolidation of Proceedings Under Sections 11 (b) (1) and 11 (b) (2)*

In these holding company systems here under consideration the problems under sections 11 (b) (1) and 11 (b) (2) are in many respects closely related. For example, a disposition of properties under section 11 (b) (1), in accordance with the tentative determinations hereinbefore expressed, will result in the elimination from The United Light and Power Company and The United Light and Railways Company holding company systems of all of the properties now owned or controlled by American Light & Traction Company.[13] It may also be noted that the disposition of various properties may provide funds which may be used to retire holding company obligations and otherwise to facilitate the taking of action directed toward compliance with section 11 (b) (2).

Furthermore, it may be noted that the underlying facts, on the basis of which action must be rested either under section 11 (b) (1) or section 11 (b) (2), are to a considerable extent the same. In the proceedings under section 11 (b) (2), the record already contains the report of the Public Utilities Division and other detailed financial data. It may well be that this factual material can be of assistance in the proceedings under section 11 (b) (1) as well as those under section 11 (b) (2).

For reasons such as these it is our opinion that the administration of the Act will be facilitated by an appropriate order of consolidation of the proceedings under sections 11 (b) (1) and 11 (b) (2). For that purpose our order will consolidate the two proceedings and reconvene the hearing, subject to the proviso that a separation of the two proceedings for disposition or otherwise may be made at any time to the extent the Commission deems appropriate.

VI. *Order of Consolidation and Reconvening Hearings*

It is hereby ordered, That: 1. The proceedings heretofore commenced under section 11 (b) (1) of the Public Utility Holding Company Act of 1935 (File No. 59–11), and the proceedings heretofore commenced under section 11 (b) (2) of said Act (File No. 59–17, which proceeding was heretofore consolidated with an application by The United Light and Power Company pursuant to section 11 (e), File No. 54–25), be and are hereby consolidated for the purposes of hearing and for the purpose of disposition to the extent the Commission may deem it appropriate, but reserving the right by the Commission to hear separately any of such matters, or to make separate disposition of any of the hearings herein, as may hereafter appear to the Commission to be conducive to the orderly and expeditious administration of the Act.

2. The hearings heretofore commenced in these proceedings shall be reconvened, on a consolidated basis as aforesaid, on June 26, 1941, at 10:00 in the forenoon of that day at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., in such room as may be designated on such date by the Hearing Room Clerk in Room 1102, before Richard Townsend, an officer of the Commission, or before such other officer as the Commission may

[12] The names of these companies are: Cedar Rapids Gas Company, Fort Dodge Gas and Electric Company, Iowa City Light and Power Company, Moline-Rock Island Manufacturing Company, Ottumwa Gas Company, Peoples Light Company, Peoples Power Company, Tri-City Railway Company (Ill.), Tri-City Railway Company (Iowa), Clinton, Davenport & Muscatine Railway Company, LaPorte Gas and Electric Company, and Mason City and Clear Lake R. R. Company.

[13] The manner of such elimination is of course one of the matters for consideration in these proceedings.

hereafter designate. The officer so designated to preside at such reconvened hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

3. At the outset of said hearing, to be reconvened as aforesaid, the respondents and other parties in interest shall be given an opportunity to be heard for the purpose of showing cause why an order should not be entered pursuant to section 11 (b) (1) of said Act requiring:

(a) The elimination from the holding company system of Continental Gas & Electric Corporation of all of the properties controlled by it other than those located in Missouri, Kansas, Iowa, Nebraska, Illinois and Oklahoma, and particularly requiring the disposition of the interest of the aforesaid holding company system in Columbus and Southern Ohio Electric Company, Point Pleasant Water and Light Company, and The Hillsboro Ice and Coal Company;

(b) The elimination from the holding company system of American Light & Traction Company of all of the properties of said system other than those located in Michigan and Wisconsin, and particularly requiring the disposition of the interest of said holding company system in San Antonio Public Service Company, American Coal Company, South Texas Ice Company, Detroit Edison Company and International Paper and Power Company.

(c) The elimination from the holding company system of The United Light and Railways Company and from the holding company system of The United Light and Power Company of all of the properties of said holding company system other than those located in Missouri, Kansas, Iowa, Nebraska, Illinois and Oklahoma, and particularly requiring the disposition of the interest of those holding company systems in all of the following companies:

Columbus & Southern Ohio Electric Co.
Point Pleasant Water & Light Co.
Michigan Consolidated Gas Co.
Madison Gas and Electric Co.
Milwaukee Gas Light Co.
The Milwaukee Coke & Gas Co.
San Antonio Public Service Co.
American Michigan Pipe Line Co.
Milwaukee Solvay Coke Co.
Consolidated Building Corporation.
The Hillsboro Ice & Coal Co.
American Coal Co.
Detroit Edison Co.
South Texas Ice Co.
American Production Co.
International Paper & Power Co.

and requiring the disposition of the interest of The United Light and Power Company in LaPorte Gas and Electric Company.

4. Thereafter the respondents and other parties in interest shall be given an opportunity to be heard for the purpose of showing cause why an order should not be entered pursuant to section 11 (b) (2) of said Act, requiring the elimination from the holding company systems of The United Light and Power Company and of The United Light and Railways Company of all but one holding company, and for that purpose requiring the elimination as part of said holding company systems of American Light & Traction Company, and requiring the elimination and dissolution either of The United Light and Railways Company or of Continental Gas & Electric Corporation.

5. At such time as may be appropriate, consideration will also be given and the respondents and all other parties in interest shall have an opportunity to be heard with respect to the time and manner for disposition of any other issues presented in these proceedings, including, among others, those presented under Clauses (A) and (C) of section 11 (b) (1), issues with respect to the retention of non-utility businesses, and questions under section 11 (b) (2) regarding the capital structures of various of the respondents and the fairness and equitableness of distribution of voting power thereof.

It is further ordered, That the Secretary of the Commission shall serve notice of the issuance of this statement, notice and order and of the reconvening of said hearings by mailing a copy of this statement of tentative conclusions and order by registered mail to The United Light and Power Company and to each of the attorneys of record herein and to each of the interveners herein, and that notice of the reconvening of said hearing is hereby given to the said respondents and interveners and to all other persons, including the security holders and consumers of the said respondents, to all States, municipalities and political subdivisions of States within which are located any of the utility assets of any of the companies of respective holding company systems of The United Light and Power Company, The United Light and Railways Company, American Light & Traction Company, Continental Gas & Electric Corporation, United American Company, Iowa-Nebraska Light and Power Company, and Northern Natural Gas Company, or under the laws of which any of the respondents are incorporated, to all State commissions, State securities commissions and all agencies, authorities or instrumentalities of one or more States, municipalities, or other political subdivisions having jurisdiction over any of the businesses, affairs, or operations of any of them, such notice to be given by publication of this statement, notice and order in the FEDERAL REGISTER, and by publication of this statement, notice and order as a general release, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935.

It is further ordered, That jurisdiction be and is hereby reserved to separate, either for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues or questions which may arise in these proceedings or in the said proceedings under section 11 (b) (2), hereby consolidated, or in either of such proceedings and to take such other action as may appear conducive to an orderly, economical and expeditious disposition to the issues involved.

By the Commission (Chairman Eicher and Commissioners Healy and Pike), Commissioner Henderson being absent and not participating.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-4344; Filed, June 17, 1941; 11:10 a. m.]

[File No. 1-414]

IN THE MATTER OF AUTOMOBILE FINANCE COMPANY; $25 PAR VALUE 7% CUMULATIVE PREFERRED STOCK, $1 PAR VALUE COMMON STOCK

ORDER DENYING APPLICATION OF ISSUER FOR WITHDRAWAL FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1941.

The Automobile Finance Company, having made application to the Commission pursuant to section 12 (d) of the Securities Exchange Act of 1934 for permission to withdraw 35,000 shares of $25 par value 7% cumulative preferred stock and 240,310 shares of $1 par value common stock from listing and registration on the Pittsburgh Stock Exchange; and

A hearing having been held on said application and the trial examiner having filed an advisory report, the Commission having considered the record and having this day filed its Findings and Opinion herein, and having found that said application and the notice sent by applicant to its security holders are materially inaccurate and misleading;

It is ordered, That this application be and it hereby is denied without prejudice, however, to the right of the applicant to file a corrected application and to submit to its stockholders a corrected notice setting forth the true facts and advising them of their right to present their views to the Commission either by letter or at a hearing on the corrected application.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-4343; Filed, June 17, 1941; 11:10 a. m.]

[File No. 812-168]

IN THE MATTER OF THE JOINT APPLICATION OF ATLAS CORPORATION, RADIO-KEITH-ORPHEUM, AND KEITH-ALBEE-ORPHEUM

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1941.

Atlas Corporation, Radio-Keith Orpheum, and Keith-Albee-Orpheum, having filed a joint application under section 17 (b) of the Investment Company Act of 1940 for an order exempting from the provisions of section 17 (a) of said Act certain proposed transactions involving the purchase and sale of securities between Radio-Keith-Orpheum and Keith-Albee-Orpheum, and the purchase and sale of securities and property between Keith-Albee-Orpheum and a proposed corporation to be known as B. F. Keith Corporation.

It is ordered, That a hearing on the matter of the joint application of the above named applicants under the applicable provisions of said Act and the rules of the Commission for exemption from the provisions of section 17 (a) of the Investment Company Act of 1940 be held on June 23, 1941 at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk will advise interested parties where such hearing will be held;

It is further ordered, That Charles S. Lobingier, Esquire, or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicants and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-4350; Filed, June 17, 1941; 12:03 p. m.]